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MADRAS, FRIDAY EVENING, JUNE 18, 1886.

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Part I.—Notifications by Government.

PUBLIC DEPARTMENT.

Ootacamund, June 16, 1886.

APPOINTMENTS.

No. 198.—Mr. William Stevenson Meyer to act as Head Assistant to the Collector and Magistrate of the district, Kistna, during the employment of Mr. Wolfe-Murray on other duty, or until further orders.

No. 199.—Mr. Robert Bailey Clegg to act as Head Assistant to the Collector and Magistrate of the district, Cuddapah, during the employment of Mr. Broadfoot on other duty, or until further orders.

No. 200.—Surgeon Donald Frederick Dymott, M.B., Resident Surgeon, General Hospital, to act as Secretary to the Surgeon-General with the Government of Madras during the absence of Surgeon C. M. Thompson, M.B., on leave, or until further orders.

No. 201.—Surgeon Henry Augustus Fitzroy Nailer, M.B., Civil Surgeon, Chingleput, to act as Resident Surgeon, General Hospital, during the employment of Surgeon Dymott on other duty.

PATENTS.

No. 202.—Notice is hereby given that there have been received in the office of the Chief Secretary to Government, where any of them may be inspected at all reasonable times on payment of a fee of one rupee, copies of the specifications of the inventions of which the following are brief descriptions :—

(By Mr. William Johnson, Hat Manufacturer, of Nos. 1, 2, and 3, Sackville Street, and No. 40, Piccadilly, in the County of Middlesex, England)—"Improvements in ventilating hats and helmets."

(By Mr. Charles Allan Jones, Solicitor, of Hatherley Court, Gloucester)—"Improvements in folding tables, music-stands, or desks or stands of a similar nature."

(By Mr. Louis Sepulchre, Manufacturer, of Herstal-lez Liege, in the Province of Liege and Kingdom of Belgium)—"Improvements in lamps for burning mineral oils applicable also to gas burners."

NOTIFICATION.

No. 203.—Notice is hereby given that on the 3rd February 1886 the undermentioned property, valued in all Rupees 180-9-0, was found near the burial-ground at a distance from the temple of Agasti Iswaraswamy, in the village of Irakam, in Gudur Taluk, Nellore District :—

List of Property.

	Value. RS.	A.	P.
A big idol of mixed metal, 6 maunds weight	150	0	0
A small idol of mixed metal, 2½ viss weight	15	0	0
Cumbarthi, copper, 1¼ viss ..	3	0	0
Tirthanattu, ¼ viss, copper ..	1	0	0
Copper sandals (a pair), ½ viss ..	2	0	0
One bell, 4 pollams	0	1	0
Cumbarthi thattalu (two) of one metal	4	0	0
One plate made of bell-metal, ½ viss..	0	8	0
One metallic plate for cumbarthi, 2½ viss	5	0	0
Total ..	180	9	0

All persons claiming the treasure or any part thereof are required to appear personally or by agent before the Collector on the 1st October 1886 at Nellore and establish their claims to it.

PAPERS FOR PRESS.

No. 204.—The following list of papers placed at the disposal of the press on the 18th June 1886 is published for general information :—

No. on the List.	Department.	Subject.
1	Public ..	Reviewing the report of the Chemical Examiner for the year 1885.
2	Judicial ..	Reviewing the reports received on the operation of the Factories Act in the Madras Presidency during the year 1885.
3	,, ..	Communicating to all District Magistrates the return of cattle destroyed by tigers and cheetahs during first quarter of 1886.
4	Financial ..	Municipal Budget.—Reviewing the budget of the Erode Municipality for 1886-87.
5	,, ..	Local Fund Budget.—Reviewing the — of the North Arcot District for 1886-87.
6	,, ..	Municipal Budget.—Reviewing the Karur — for 1886-87.
7	,, ..	Municipal Budget.—Reviewing the Adoni — for 1886-87.
8	,, ..	Municipal Budget.—Reviewing the Coonoor — for 1886-87.
9	Revenue ..	Destruction of Wild Animals.—Review of report on — for 1885.
10	,, ..	Agricultural Experiments.—Concurring in the opinion expressed by the Board of Revenue regarding the system of conducting and reporting —, and relying upon the officers concerned to induce ryots to try experiments in improved methods of agriculture and to afford them every encouragement and assistance in such undertakings.
11	,, ..	Dr. Thurston's Tour Report.—Thanking Dr. Thurston for his report, and ordering printed copies to be placed on the Editors' table and forwarded to the Travancore Government.
12	,, ..	Madras Committee of the Indian and Colonial Exhibition.—Recording report on the proceedings of the —, and tendering the thanks of Government to the members and certain gentlemen for services rendered.
13	,, ..	Diversified Cropping.—Instructing the Director of Revenue Settlement and Agriculture to draw up a plan of operations for carrying out the experiment in the Kistna and Godavari Districts, and directing him to make inquiries regarding the possibility of obtaining suitable tracts of land in other districts.
14	Public Works..	Palghat Branch, Madras Railway.—The sanction of the Secretary of State to the construction of the — communicated to the Consulting Engineer for Railways.
15	,, ..	Madura-Pamban Line.—Certain proposals of the Engineer-in-Chief, Madras State Railway Surveys, for the survey of the —, approved.
16	,, ..	Madras Railway.—Certain alterations in the train service and introduction of a revised time-table from 1st July 1886, sanctioned.

N.B.—A copy of any of the foregoing papers can be obtained, on payment, on application to the Superintendent, Government Press.

E. F. WEBSTER,
Chief Secretary.

JUDICIAL DEPARTMENT.

Ootacamund, June 16, 1886.

LEAVE.

No. 230.—Mr. H. R. Grimes, Inspector-General of Jails, privilege leave for two months, from or after the 5th July 1886, under section 74 of the Civil Leave Code.

APPOINTMENTS.

No. 231.—M.R.Ry. P. Ranganadham Moodelliar to act as Registrar of the Court of Small Causes, Madras, during the employment of Mr. Maskell on other duty, or until further orders.

No. 232.—The Right Honorable the Governor in Council is pleased to appoint the undermentioned gentlemen Special Magistrates for the Town of Conjeeveram in the district of Chingleput with the powers and subject to the terms and conditions of Notifications dated 16th February 1875, 4th December 1877, 25th April 1878, and 8th May 1884:—

M.R.Ry. K. Sellaperuma Mudaliar, Merchant, and M.R.Ry. V. Sadasiva Aiyar, Head Master, Free Church Mission High School, *vice* M.R.Ry. Arunachella Mudaliar, deceased, and Mr. Brown, late Sub-Registrar, transferred.

No. 233.—The Right Honorable the Governor in Council is pleased to appoint the undermentioned gentleman a Special Magistrate for the Town of Negapatam in the district of Tanjore with the powers and subject to the terms and conditions of Notifications dated 16th February 1875, 4th December 1877, 25th April 1878, and 8th May 1884:—

M. R. Ry. Tirutwanathan Chetti, Second-grade Pleader, *vice* M.R.Ry. A. Seshapaiyar, deceased.

SOUTH ARCOT.

No. 234.—M.R.Ry. N. Ragavulu Naidu, Sub-Registrar, Seventh Grade, Nellakota, Madura, to be Sub-Registrar, same grade, Vanur, South Arcot.

MADURA.

No. 235.—N. Subbaramiah, Sub-Registrar, Seventh Grade, Vedasandur, to be Sub-Registrar, same grade, Nellakota.

No. 236.—Probationary Sub-Registrar S. P. Narayanaswamy Aiyar, Madura, to be Sub-Ragistrar, Seventh Grade, Vedasandur.

INVESTITURE OF POWERS.

No. 237.—Under section 12 of the Code of Criminal Procedure, the undermentioned officer is appointed to be a Magistrate of the First Class and to exercise the ordinary and special powers conferred by sections 36 and 37 and described in schedules III and IV respectively:—

M.R.Ry. T. Jugganadham, Temporary Deputy Collector in the district of Godavari.

No. 238.—Under section 12 of the Code of Criminal Procedure, the undermentioned officers are appointed to be Magistrates of the Second Class and to exercise the ordinary and special powers conferred by sections 36 and 37 and described in schedules III and IV respectively:—

M.R.Ry. T. Panchapakesa Aiyar, Deputy Tahsildar of Usilampati in the district of Madura.

M.R.Ry. Ambat Nanu Menon, Deputy Tahsildar of Tangacheri in the district of Malabar.

M.R.Ry. C. Numberumalaiya, Acting Deputy Tahsildar of Bellary Town in the district of Bellary.

No. 239.—Under section 12 of the Code of Criminal Procedure, the undermentioned officer is appointed to be a Magistrate of the Third Class and to exercise the ordinary and special powers conferred by sections 36 and 37 and described in schedules III and IV respectively:—

Muhammad Jaffer Hussain, Deputy Tahsildar of the town of Cuddapah in the district of Cuddapah.

Ootacamund, May 31, 1886.

NOTIFICATIONS.

No. 240.—It is hereby notified that the "Certifying Surgeon" under section 5 of the Factories Act (XV of 1881) is for the Chittivalasa Gunny Factory in the District of Vizagapatam the Apothecary in charge of the Municipal Dispensary, Bimlipatam.

Ootacamund, June 15, 1886.

No. 241.—Under the provisions of section 1 of Act II of 1866, Madras (an Act for the prevention of the spread of disease among cattle in the Presidency of Madras), the Right Honorable the Governor in Council directs that the notification published at page 303 of the *Fort St. George Gazette* dated 7th April 1886, by which Act II of 1866 was put in force in the district of Madura, be, and the same hereby is, withdrawn.

E. F. WEBSTER,
Chief Secretary.

MARINE DEPARTMENT.

Ootacamund, June 7, 1886.

NOTIFICATION.

No. 13.—The following Proceedings of the Harbour Trust Board appointed under the provisions of section 7 of the Madras Harbour Trust Act (II of 1886) at a Meeting held on Tuesday the 1st June 1886 are published:—

Present:

The Hon. R. W. Barlow, C.S., Chairman.
Mr. H. R. Dawson.
Mr. E. P. Oakshott.
Lieutenant J. H. Taylor, R.N.R.
Major D. McNeil Campbell, R.E.
V. Mahomed Sherief Sahib Bahadur.
M.R.Ry. S. Venkatakistnamah Chetty Garu.
M.R.Ry. A. Danacoty Mudaliar Avargal.
Mr. R. G. Orr.

The Chairman addressed the Meeting :—

"GENTLEMEN,—I called this meeting partly on formal grounds, because the Harbour Trust came into existence to-day, but also for one necessary resolution, viz., to ask the Board to sanction, under section 21, the continuance, for the present, of the staff now working and collecting harbour dues under previous sanction.

"I shall shortly, under section 37, lay before the Board the estimate of expenditure and income for the current year ending 31st March next. I trust to do this long before the 'two months' allowed by the said section."

Proposed by Mr. R. G. Orr, and seconded by Mr. Danacoty Mudaliar,—

"That for the present the Harbour Dues staff shall be maintained on the terms heretofore existing."

Carried unanimously.

Resolved,—that the members of the Board be furnished with copies of the Act and all other documents relating to the constitution of the existing staff and other papers that may be available in connection with the Harbour including the finance statement to date.

Resolved,—that the Chairman be invited to put himself in communication, by wire, with the Harbour authorities at Calcutta and Bombay to ascertain whether they can recommend an officer competent to undertake the duties of Secretary.

Resolved,—that the meeting adjourn till Thursday 10th at 4-30 P.M. at the Custom House, and that future meetings take place on Thursdays at this hour.

E. F. WEBSTER,
Chief Secretary.

ECCLESIASTICAL DEPARTMENT.

Ootacamund, June 16, 1886.

APPOINTMENTS.

No. 62.—Major H. B. Winter, Commandant, to be a Lay Trustee of St. Mary Magdalene's Church, Poonamallee, in the place of Colonel W. Cox, who has left the station.

No. 63.—Captain Douglas D. Pryce, Adjutant of the South Indian Railway Volunteers, to be a Lay Trustee of St. Peter's Church, Negapatam.

E. F. WEBSTER,
Chief Secretary.

REVENUE DEPARTMENT.

Ootacamund, June 16, 1886.

LEAVE.

No. 215.—Mr. A. W. B. Higgens, District Forest Officer, Cuddapah, privilege leave for two months and seven days, from the 28th instant, under section 74 of the Civil Leave Code, Sixth Edition.

APPOINTMENTS.

No. 216.—M.R.Ry. K. Vengu Pillai Avargal, Temporary Deputy Collector, Salem, to act as Deputy Collector in charge of the Treasury, Kurnool, during the absence of M.R.Ry. K. Ramaswami Shastri Avargal on leave, or until further orders—to join at once.

No. 217.—M.R.Ry. V. Subbaiyar Avargal, B.A., Temporary Deputy Collector, Tanjore, to be Temporary Deputy Collector and Magistrate, Chingleput, under G.O., 12th January 1877, No. 105, F.D.

No. 218.—Saiyid Kadir Badshah Sahib Bahadur, Acting Deputy Collector in charge of the Treasury, Coimbatore, to be Temporary Deputy Collector and Magistrate, Tanjore, under G.O., 12th January 1877, No. 105, F.D.

No. 219.—M.R.Ry. M. Suriyamurti Pillai Avargal, General Charge Deputy Collector, Tinnevelly, to act as Deputy Collector in charge of the Treasury, Coimbatore, *vice* Saiyid Kadir Badshah Sahib Bahadur on other duty, or until further orders.

No. 220.—M.R.Ry. R. Anantarama Aiyar Avargal, B.A., Collector's Sarishtadar, Tinnevelly, to act as Deputy Collector and Magistrate on General Duties in the same district, *vice* M.R.Ry. M. Suriyamurti Pillai Avargal on other duty, or until further orders.

No. 221.—Lieutenant-Colonel C. C. Sargeaunt, Deputy Superintendent, Revenue Survey, to be Superintendent, Revenue Survey, *vice* Colonel H. T. Rogers, R.E.,—to have effect from the date of Colonel Rogers' retirement.

No. 222.—Mr. A. W. C. Stanbrough, Deputy Conservator of Forests, to act as District Forest Officer, Madura, during the absence of Mr. Gass on furlough, or until further orders, without prejudice to his appointment as District Forest Officer, Trichinopoly.

No. 223.—Mr. H. J. A. Porter, Assistant Conservator of Forests, First Grade (Acting Deputy Conservator of Forests, Fourth Grade), to act as Deputy Conservator, Third Grade, *vice* Mr. Gass.

No. 224.—Mr. A. W. Lushington, Assistant Conservator of Forests, First Grade, to act as Deputy Conservator, Fourth Grade, *vice* Mr. Porter.

Ootacamund, May 31, 1886.

NOTIFICATIONS.

No. 225.—Under the provisions of section 40 of the Income Tax Act (II of 1886), the Right Honorable the Governor in Council is pleased to invest the Deputy Tahsildar, Shevaroy Hills, with all the powers of a Collector under the Act, excepting the power to sanction prosecutions under section 36, to be exercised within the limits of the Shevaroy Hills.

Ootacamund, June 12, 1886.

No. 226.—Under the provisions of section 40 of the Income Tax Act (II of 1886), the Right Honorable the Governor in Council is pleased to invest the Deputy Tahsildars of Ichapur and Purushottapur in the Ganjam District with the powers of a Collector under the Act within the limits of their divisions, excepting the power to sanction prosecutions under section 36.

Ootacamund, June 16, 1886.

No. 227.—In the exercise of the powers delegated to him by His Excellency the Governor-General in Council under section 38, sub-section 1, of the Income Tax Act (II of 1886), the Right Honorable the Governor in Council of Fort St. George is pleased to prescribe, with reference to rule 9 of the rules embodied in the notification, No. 98, dated 18th March 1886, published at pages 231 to 235 of the *Fort St. George Gazette* dated 24th March 1886, Part I, that petitions, under section 27 of the Act, against orders issued under section 12, sub-section (2), or section 26, shall be presented within fifteen days from the date of such orders.

Ootacamund, June 10, 1886.

No. 228.—Under the provisions of section 40 of the Income Tax Act (II of 1886), the Right Honorable the Governor in Council is pleased to invest the Treasury Deputy Collector of South Canara with the powers of a Collector under the Act within the limits of the Municipality of Mangalore, excepting the power to sanction prosecutions under section 36, and to empower him to assess incomes below Rupees 10,000.

Ootacamund, June 9, 1886.

No. 229.—In exercise of the powers conferred by section 29, clause (*e*), of the Madras Abkári Act (I of 1886), the Right Honorable the Governor in Council is pleased to prescribe that, in addition to the measures specified in rule 3, Notification No. 80, dated 17th March 1886, published at pages 190 and 191 of the *Fort St. George Gazette* of the same date, one-fourth of a dram may also be used for the sale of country liquor throughout the Presidency of Fort St. George.

Ootacamund, June 11, 1886.

No. 230.—Under section 4 (*b*) of the Madras Abkári Act, 1886, the Right Honorable the Governor in Council is pleased to appoint the Collector of Madras for the time being to exercise all the powers and to perform all the duties of a Collector within the tract comprised within eight miles beyond the local limits of the ordinary original civil jurisdiction of the High Court and known as the "outside limits" of the Madras Abkári, for the purpose of the administration of the toddy revenue in that tract, in exclusion of the Collector of the Chingleput District.

Ootacamund, June 17, 1886.

No. 231.—Under section 24 of the Madras Abkári Act, 1886, and in exercise of all other powers enabling him in this behalf, the Right Honorable the Governor in Council is pleased to prescribe the following Rules for the issue, &c., of licenses under section 12 of the said Act for the tapping of toddy-producing trees and for the drawing of toddy therefrom, to have effect in the following local areas from the first day of October 1886 :—

(1) The Calicut Taluk of the Malabar District.

(2) The town of Cannanore comprising the following amsams :—

Elayavur amsam.
Pulati amsam.
Karar territory.

(3) The town of Tellicherry comprising the following amsams :—

Nittur.
Tellicherry.
Mailamjanmam.
Tiruvangad.

(4) The town of Palghat comprising the following amsams and desams :—

Koppam amsam.
Puttur do.
Yakkara do.
Vaddakkantara amsam.
Kannadi do.
Puthupariyaram desam of Kavalpad amsam.
Kavalpad desam of Kavalpad amsam.
Kattakakunnu desam of Akathethara amsam.
Kottekad desam of Akathethara amsam.
Kallekulangara Ul-desam of Akathethara amsam.
Choppilamuri Ul-desam of Akathethara amsam.

(5) The town of Cochin comprising the town and outlying Pattams but excluding Tangacherry and Anjengo.

(6) The Bandar Taluk of the Kistna District.

(7) The Cocanada and Coringa Divisions of the Godavari District.

(8) The Cuddalore Taluk of the South Arcot District.

(9) The Trichinopoly Taluk of the Trichinopoly District.

RULES.

1. Tree-tapping licenses shall be granted only on the application of persons holding licenses for the sale of toddy, in their own names or in the names of their nominees. Where the exclusive privilege of manufacturing and supplying toddy by wholesale and of selling the same by retail has been granted to any person, tree-tapping licenses will be issued only on the application of such grantee.

2. Applications for the grant of tree-tapping licenses must be made in the prescribed form to the Inspector of the Salt and Abkári Department in charge of the Circle. Forms may be obtained from the Salt and Abkári Inspectors and from all Tahsildars and Deputy Tahsildars in the abovementioned local areas. They must bear a court-fee stamp of one anna and must contain the certificate of a Treasury or Sub-Treasury Officer that the fees, if any (or the first instalment thereof, as the case may be), due on account of the trees which it is desired to tap, have been paid.

3. Collectors may also empower heads of villages to receive such fees and to grant receipts therefor which must be produced with the application form to the Inspector.

4. Persons applying for the issue of licenses will be responsible to Government for all sums payable as tree-tax on account of the trees licensed in such licenses to be tapped.

5. On receipt of an application, the Inspector will at once take steps for the marking of the trees

by an officer superior in rank to a petty officer and for the issue of the license.

6. No license shall be granted for tapping less than fifteen trees except to persons who already hold tree-tapping licenses to whom supplemental licenses may be granted for not less than five trees.

7. No tree shall be tapped nor shall toddy be drawn from any toddy tree, nor shall any pot be attached to any toddy tree, until the tree has been marked by the proper officer. But the preparation of the spathes for the drawing of toddy is permitted, as soon as the fee (or the first instalment thereof, as the case may be) has been paid, a receipt has been obtained, and the application in the prescribed form has been delivered to the Inspector; or, when the exclusive privilege of manufacturing and supplying toddy by wholesale and of selling the same by retail has been granted, on written authority obtained by the tapper from the grantee. Provided that such written authority shall not be so granted before an application for the issue of a license in the name of the tapper has been delivered to the Inspector.

8. The currency of tree-tapping licenses shall be one year. Annual licenses shall expire on the 30th day of September following the date of their issue, or on such other date as the Commissioner of Salt and Abkári Revenue may from time to time prescribe for any local area to which these Rules apply.

9. The following shall be the annual fees payable on account of each tree for the tapping of which a license is applied for:—

Local Areas.	Kinds of Trees and Fees payable.			
	Cocoa-nut.	Pal-myra.	Date.	Sago.
	RS.	RS.	RS.	RS.
Calicut Taluk .. Calicut Town .. Cannanore Town .. Tellicherry do. .. Palghat do. .. Cochin do. ..	3	2	..	6
Bandar Taluk .. Cocanada Division .. Coringa do. ..	1	1	$1\frac{1}{2}$	..
Cuddalore Taluk .. Trichinopoly Taluk ..	3	2	1	..

10. The fees payable on account of any license issued under these rules shall be payable in the following instalments, unless the Commissioner of Salt and Abkári Revenue shall otherwise direct. Provided that, if the exclusive privilege of manufacturing and supplying toddy by wholesale and of selling the same by retail shall have been granted to any person under the orders of Government, the instalments by which such fees shall be payable shall be regulated by the conditions of such grant.

Period within which the License is issued.	Proportion of Tree-tax to be paid at the time of Application for License.	Instalments by which the Remainder is to be paid.
	For Cocoanut and Sago Trees.	
Between October 1 and December 31 in any year.	One-quarter	Four equal monthly instalments in the following months of January to April inclusive.
Between January 1 and March 31 in any year.	One-half	Two equal monthly instalments in the following months of April and May.
Between April 1 to June 30 in any year.	Three-fourths	One instalment on the 1st of August.
Between July 1 and September 30 in any year.	The whole	None.
	For Palmyra Trees.	
Between October 1 and December 31 in any year.	One-half	Two equal monthly instalments in the following months of January and February.
Between January 1 to September 30 in any year.	The whole	None.
	For Date Trees.	
Between October 1 of one and September 30 of the following year.	One-half	The remainder on the first day of the second month following.

11. Every instalment of tree-tax shall be paid on the first day of the month on which it falls due.

12. For the convenience of applicants, applications will be received, trees will be marked and licenses will be issued before September 30 in each year, to take effect from the following 1st of October only, before which date no toddy shall be drawn under such licenses.

13. The holder of a tree-tapping license may cause the trees mentioned in the license to be tapped by his relative or servant.

14. Tree-tapping licenses issued on the application of a person to whom the exclusive privilege of manufacturing and supplying toddy by wholesale and of selling the same by retail has been granted will include the right to sell toddy between sunrise and sunset at the tree foot, *i.e.*, in a shed in the garden or field in which the trees stand.

15. All toddy not so sold shall be conveyed direct to a distillery or to a licensed toddy shop under a general transport permit which will be granted *gratis* by the Inspector.

16. No toddy shall be kept by a person holding a license under these Rules in the garden or field, in which stand the trees which he is licensed to tap, between sunset and runrise, except in the pots hanging on the trees which he holds a license to tap.

Ootacamund, June 9, 1886.

No. 232.—In the Notification No. 111, dated 29th March 1886, published at pages 272 to 290 of the *Fort St. George Gazette* dated 31st March 1886, for the local areas specified against the Madura District, viz., "the Melur Taluk and the Tirupatur and Tiruvadanai Magisterial Divisions," the following list of villages will be substituted:—

The following villages in the Madura District within a distance of five miles from the Pudukota Frontier :—

1. Sevalpatty.
2. Viramathi.
3. Acharapatty.
4. Vadakilayathakudy.
5. Kylasanathapuram.
6. Muthoor.
7. Kallapettai.
8. Appinipatti.
9. Nagappanpatty.
10. Ammapatty.
11. Nedumaram.
12. Melakavinipatty.
13. Kovilpatty.
14. Magipalampatty.
15. Salaipatty.
16. Nanthipatty.
17. Maruthukudipatti.
18. Pappanpatti.
19. Konnattampatti.
20. Poolampatty.
21. Aiyalamanagaram.
22. Karumichampatty.
23. Thoovar.
24. Poolangurichi.
25. Sullampatty.
26. Pudukudiyiruppoo.
27. Sevvoor.
28. Pelakudipatti.
29. Malampatti.
30. Velangudy.
31. Kuruvadipatty.
32. Ammayendal.
33. Mackanampatti.
34. Sundakattoor.
35. Nallipatti.
36. Meyapatti.
37. Kilakavinipatty.
38. Shenbagampettai.
39. Iraniyur.
40. Nagappanpatti.
41. Therkilayathagudy.
42. Kovilpatti.
43. Keeranipatti.
44. Oosadipatti.
45. Manthiripatti.
46. Eichampatti.
47. Kasavoopettai.
48. Mithanaipatty.
49. Thirukalakudi.
50. Valayakudiruppu.
51. Edayakudiruppu.
52. Athirapatti.
53. Santhirapatti.
54. Karuppanpatti.
55. Avinipatti.
56. Seminipatti.
57. Regunathanpatti.
58. Muthupattanam.
59. Caveripatti.
60. Chattirapatty.
61. Nemam.
62. Attangudy.
63. Nemattampatti.
64. Vadakudipatty.
65. Kottamangalam.
66. Kanadukattan.
67. Sivalangudy.
68. Pallattoor.
69. Vadakudi.
70. Karuvipatti.
71. Kallangudi.
72. Palayipatti.
73. Alagapuri.
74. Kandanoor.
75. Manakudy.
76. Puthuvayal.
77. Sakottai.
78. Veerasegrapuram.
79. Mullangadoo.
80. Vellipatty.
81. Melakini.
82. Kilakeni.
83. Porungudi.
84. Periakottai.
85. Pirambuvayal.
86. Sengirai.
87. Sirangapuram.
88. Kurunthampallam.
89. Ammanapatti.
90. Usilamgulam.
91. Kackakottai.
92. Thattagudi.
93. Aramanaivayal.
94. Kidayamgudy.
95. Kilachettivayal.
96. Ammanai.
97. Nettaindal.
98. Palakurichi.
99. Narikudy.
100. Molumbur.
101. Nattucheri.
102. Valayanvayal.
103. Kandiravayal.
104. Sevaiperian.
105. Solankadu.
106. Kudikadu.
107. Poyyavayal.
108. Pudupatti.
109. Sembulanvayal.
110. Sananvayal.
111. Vettivayal.
112. Yeinjavayal.
113. Karakondan.
114. Pilavadipatti.
115. Maniyarampatti.
116. Peikalakadu.
117. Vilarikadu.
118. Puttanvayal.
119. Vanjinipatti.
120. Valayakudiruppu.
121. Edayakudirippu.
122. Kilamadam.
123. Singamangalapatti.
124. Theekattikadu.
125. Vadakattikadu.
126. Ovalipatti.
127. Vadagapatti.
128. Olugamangalapatti.
129. Maruthipatti.
130. Aralipatti.
131. Vadithipatti.
132. Kelanerkuppai.
133. Melanerkuppai.
134. Pollattupatti.
135. Pariamadandapatti.
136. Nilamagampatti.
137. Poruthapatti.
138. Nemmanipatti.
139. Selliampatti.
140. Mettuputti.
141. Puduputti.
142. Kovilputti.
143. Amirthavallipatti.
144. Sirumapattiyur.
145. Thevammapatti.
146. Pudupatti.
147. Poolampatti.
148. Vyapuripatti.
149. Piranmalai.
150. Karisapatty.
151. Nallavanpatti.
152. Kilavayal.
153. Kunnattur.
154. Ganapathipatti.

155. Settikurichi.
156. Kattukudipatti.
157. Pottapatti.
158. Vannariruppu.
159. Ponnudappampatti.
160. Velampatti.
161. Murukampatti.
162. Manthakudipatti.
163. Aranipatti.
164. Oolagampatti.
165. Kurumbalur.
166. Kolattupatti.

Ootacamund, June 14, 1886.

No. 233.—With reference to the Notification No. 198, published on page 526 of the *Fort St. George Gazette* dated 4th June 1886, granting privilege leave for two months and seven days to M.R.Ry. D. Jagannatha Rao Pantulu Garu, Forest Settlement Officer, Kurnool, His Excellency the Governor in Council is pleased to appoint the Deputy Collector for the time being of the Cumbum Division to be Forest Settlement Officer during Mr. Jagannatha Rao's absence in respect of the areas notified as proposed reserves in the marginally-noted notifications.

No. —, at page 292 of the *Fort St. George Gazette*, Part I, of 8th May 1883.
No. 198, at pages 796 and 797 of the *Fort St. George Gazette*, Part I, of 4th December 1883.
No. 199, at pages 797 and 798 of the *Fort St. George Gazette*, Part I, of 4th December 1883.

ERRATA

In the Notifications regarding Seigniorage Rates published on pages 484 *to* 501 *of the* Fort St. George Gazette *dated* 28*th May* 1886.

In the Notifications Nos. 186, 188, 189, 191, 193, 194, and 195, omit the words "Class III—continued."

In column 4 of the table in the Notification No. 190, against "Leaves for manure from herbs," &c.—

For "Per cart-load	0	5	3"
Read "Per cart-load	0	5	0"
For "Per ass-load	0	0	0"
Read "Per ass-load	0	0	6"
For "Per head-load	0	0	6"
Read "Per head-load	0	0	3"

In column 4 of the table in the Notification No. 192, against "Melia Indica," &c., under Class I—

For "Per cart-load in the rough	5	0	3"
Read "Per cart-load in the rough	5	0	0"

Against "Firewood (dead wood only)"—

For "Per ass-load	0	4	0"
Read "Per ass-load	0	0	6"
For "Per head-load	0	2	0"
Read "Per head-load	0	0	3"

In column 4 of table in the Notification No. 194, against "Agave, Sanseviera, and other shrubs"—

For "Per ass-load	0	2	6"
Read "Per ass-load	0	2	0"
For "Per head-load	0	1	3"
Read "Per head-load	0	1	0"

and against "Leaves for manure from herbs and small shrubs," &c.—

For "Per ass-load	0	0	0"
Read "Per ass-load	0	0	6"
For "Per head-load	0	0	0"
Read "Per head-load	0	0	3"

J. F. PRICE,
Acting Secretary to Government.

PUBLIC WORKS DEPARTMENT.

Fort St. George, June 17, 1886.

PROMOTIONS.

No. 63.—The following promotions are made :—

Name.	Present Grade.		Grade to which promoted.		With Effect from	Nature of Promotion.
					1886.	
Mr. H. E. Clerk ..	Assistant Engineer ..	1st.	Executive Engineer ..	4th.	1st April ..	Temporary rank.
" S. D. Pears ..	Do. ..	1st.	Do. ..	4th.	23rd do. ..	Do.
" J. J. Whiteley ..	Do ..	1st.	Do. ..	4th.	29th do. ..	Do.
" J. H. Medlicott ..	Do. ..	1st.	Do. ..	4th.	3rd May ..	Do.

Fort St. George, June 18, 1886.

No. 64.—The following promotions are made :—

Name.	Present Grade.	Grade to which promoted.	With Effect from	Nature of Promotion.
			1886.	
Major D. McNeil Campbell, R.E.	Executive Engineer, First Grade (substantive *pro tem.*).	Executive Engineer, First Grade.	5th June ..	Permanent.
Captain C. C. Rawson, R.E. ..	Executive Engineer, Second Grade (substantive *pro tem.*).	Executive Engineer, Second Grade.	Do. ..	Do.
Mr. A. Joyce	Executive Engineer, Third Grade (substantive *pro tem.*).	Executive Engineer, Third Grade.	Do. ..	Do.
" S. Subharayachariyar, B.C.E.	Executive Engineer, Fourth Grade (substantive *pro tem.*).	Executive Engineer, Fourth Grade.	Do. ..	Do.
" G. P. Carless	Assistant Engineer, First Grade (substantive *pro tem.*).	Assistant Engineer, First Grade.	Do. ..	Do.
" G. D. Wybrow	Executive Engineer, Second Grade.	Executive Engineer, First Grade.	Do. ..	Substantive *pro tem.*
" J. Grimes	Executive Engineer, Third Grade.	Executive Engineer, Second Grade.	Do. ..	Do.
" C. M. Smith	Executive Engineer, Fourth Grade.	Executive Engineer, Third Grade.	Do. ..	Do.
" A. B. Todd	Assistant Engineer, First Grade.	Executive Engineer, Fourth Grade.	Do. ..	Do.
" S. Gopalakrishna Aiyar, B.C.E.	Do. ..	Do. ..	Do. ..	Temporary rank.

CASUALTY.

No. 65.—Mr. T. D. Harris, Executive Engineer, First Grade, died at Vizagapatam on the 4th June 1886.

J. H. M. SHAW-STEWART, Colonel, R.E.,
Secretary to Government, Public Works Dept.

ACQUISITION OF LAND.

Under the provisions of section 6 of Act X of 1870, His Excellency the Governor in Council of Fort St. George hereby declares that the site described in the schedule hereto annexed, situated in the village of Talamanchi, Nellore Taluk, Nellore District, measuring more or less 20 cents, and in the present occupation of Rebala Pattabhi Rami Reddy, is needed for a public purpose, viz., for the laterite quarry of the Sangam Project :—

Schedule of Lands.

District.	Taluk.	Village.	Description of Land.	Extent taken up for Public Purposes.	Boundaries.
Nellore ..	Nellore ..	Talamanchi.	Dry Ryotwari land belonging to Rebala Pattabhi Rami Reddy, Survey No. 565-18.	20 cents, assessed at Annas 2.	*North.*—Portion of No. 565-18, already taken up by Government. *South.*—Portion of No. 565-18, in the holding of the owner. *East.*—Quarry land in the unoccupied number. *West.*—Portion of No. 565-18, in the holding of the owner.

J. O. HASTED, Colonel, R.E.,
Joint Secy. to Govt., P. W.D., Irrigation Branch.

MILITARY DEPARTMENT.

GENERAL ORDERS BY THE RIGHT HONORABLE THE GOVERNOR IN COUNCIL.

Ootacamund, 16th June 1886.

APPOINTMENTS.

No. 334.—PERSONAL STAFF—

The following appointment has been made on the Personal Staff of His Excellency the Commander-in-Chief:—

Lieutenant D. H. Macpherson, Seaforth Highlanders, to be Aide-de-Camp. Dated 10th May 1886.

FURLOUGH AND LEAVE.

No. 335.—Colonel R. B. Kennedy, Infantry, is permitted to reside out of India.

No. 336.—The undermentioned Officers have been granted extensions of furlough by the Right Honorable the Secretary of State for India:—

Colonel F. Weldon, Staff Corps, one year, p.a.
Lieutenant-Colonel T. R. Byng, Staff Corps, six months, p.a.
Major D. Heming, General List, Infantry, 4 months, m.c.
Honorary Captain W. Jackson, Public Works Department, 4 months, m.c.
(Colonel Weldon's furlough counts from 20th April 1886.)

No. 337.—With reference to G.O.G. No. 148, dated 16th March 1886, the Right Honorable the Secretary of State for India has granted Lieutenant E. S. Brooke, Probationer, Staff Corps, furlough (m.c.) for six months.

No. 338.—The undermentioned Officer has returned from furlough out of India:—

Lieutenant J. Jackson, Staff Corps, Wing Officer and Adjutant, 9th Madras Infantry. } Arrived at Madras on the 2nd June 1886.

No. 339.—So much of G.O.G. No. 281, dated 18th May 1886, as relates to the grant of furlough (m.c.) out of India to Surgeon-Major R. V. Power, M.D., 12th Madras Infantry, is cancelled.

No. 340.—The undermentioned Warrant Officer is granted furlough out of India, with the necessary subsidiary leave:—

Conductor C. Illingworth, Barrack Department (m.c.), for 182 days, under Rule VI of the Regulations of 1875.

GAZETTE OF INDIA.

No. 341.—The following General Order by the Government of India, dated 5th June 1886, is republished:—

PROMOTIONS.

No. 371.—The following promotions are made, subject to Her Majesty's approval:—

To be Colonels in the Army.

Lieutenant-Colonel Charles Chester Sargeaunt, Madras Staff Corps,—31st May 1886.

* * * *

No. 342.—The following Notification from the *Gazette of India*, dated 5th June 1886, is republished :—

DEPARTMENT OF FINANCE AND COMMERCE.

LEAVE AND APPOINTMENTS.

The 4th June 1886.

No. 1204.—Surgeon F. C. Reeves having been appointed to officiate as Deputy Assay Master, Calcutta Mint, received charge of that office before noon on the 31st May 1886.

LONDON GAZETTE.

No. 343.—The following extract from the *London Gazette*, dated 14th May 1886, is republished :—

India Office, 14*th May* 1886.

The Queen has approved of the following promotions among the Officers of the Staff Corps and Indian Military Forces made by the Governments in India :—

* * * *

MADRAS STAFF CORPS.

To be Majors.

Captain Thomas Morris Jenkins. Dated 2nd March 1886.
Captain Andrew Henry Macintire. Dated 9th March 1886.

To be Captain.

Lieutenant Arthur George Burn. Dated 10th March 1886.

MADRAS INFANTRY.

To be Lieutenant-Colonel.

Major Henry Elliott Dashwood Bayley. Dated 3rd March 1886.

MADRAS MEDICAL ESTABLISHMENT.

To be Surgeons-Major.

Surgeon Percy Hugh Benson. Dated 31st March 1886.
Surgeon John Lancaster. Dated 31st March 1886.
Surgeon Walter Gawen King. Dated 31st March 1886.

* * * *

PENSIONS.

No. 344.—The undermentioned individual, who has been discharged to pension, is permitted to reside at the place specified against his name, pending the decision of the Commissioners of Chelsea Hospital as to the amount of his pension :—

No. 764, Private Denis Desmond, 2nd Battalion, Somersetshire Light Infantry.	Rangoon, Burmah.

PROMOTIONS.

No. 345.—NATIVE ARMY—

19th Madras Infantry.

Jemadar Rungiah to be Subadar	Dated 26th March 1886.
Havildar, No. 2960, Syed Homed to be Jemadar	

No. 346.—STAFF CORPS—

The following promotions are made, subject to Her Majesty's approval :—

To be Captains.

Lieutenant Richard Godfrey Jones	Dated 13th June 1886.
Lieutenant Henry Allan Balfour Boulderson	

RETIREMENTS.

No. 347.—The Right Honorable the Secretary of State for India has permitted the undermentioned Officer to retire from the service, subject to Her Majesty's approval, with effect from the date specified :—

Lieutenant-Colonel S. E. R. Butler, Staff Corps. Dated 21st April 1886.

TRANSFER OF SERVICES.

No. 348.—OFFICERS—

The services of the undermentioned Officer are replaced at the disposal of His Excellency the Commander-in-Chief :—

Captain D. D. Pryce, Staff Corps.

No. 349.—G.O.G. No. 170, dated 23rd March 1886, placing the services of Lieutenant C. F. Beville, Probationer, Staff Corps, at the disposal of the Government of India, is cancelled.

VOLUNTEER CORPS.

No. 350.—APPOINTMENTS—

Malabar Volunteer Rifles.

Mr. Samuel Locke to be Lieutenant.
Mr. Earnest Harry Black to be Lieutenant.

No. 351.—PROMOTIONS—

Malabar Volunteer Rifles.

Lieutenant C. B. Sparrow to be Captain.

No. 352.—RESIGNATIONS—

Malabar Volunteer Rifles.

Lieutenant W. Cottrell is permitted to resign his commission at his own request.

A. R. KENNEY-HERBERT, Lieut.-Col.,
Secretary to Government.

MILITARY DEPARTMENT.

NOTIFICATION.

Ootacamund, 12th June 1886.

The Notification published at page 388 of the *Fort. St. George Gazette*, Part I, dated 24th June 1884, declaring M. Krishnasawmy Mudaliar ineligible for re-employment under Government, is hereby cancelled.

A. R. KENNEY-HERBERT, Lieut.-Colonel,
Secretary to Govt., Mily. Dept.

GOVERNMENT OF INDIA NOTIFICATION.

PUBLIC WORKS DEPARTMENT.

RAILWAY TRAFFIC.

No. IV OF 1886-87.

APPROXIMATE STATEMENT of Gross Receipts and Expenses of Indian Railways.

Latest Return received.	Railways.	Total Mean Length open.	Receipts for Week ending 2nd May 1885. Total.	Per Mile open.	Total Mean Length open.	Receipts for Week ending 1st May 1886. Total.	Per Mile open.	Total Receipts from 1st April to 2nd May 1885. Total.	Per Mile open per Week.	Total Receipts from 1st April to 1st May 1886. Total.	Per Mile open per Week.	Total Increase in 1886-87.	Total Decrease in 1886-87.
	Guaranteed.		RS.	RS.		RS.	RS.	RS.	RS.	RS.	RS.	RS.	RS.
1886. 1st May.	Oudh and Rohilkhand.	608	1,41,490	233	680	1,78,591	263	6,17,566	222	7,15,732	238	98,166	...
8th do.	Madras	861	1,28,578	149	861	1,36,279	158	6,39,614	162	6,25,783	165	...	13,831
1st do.	South Indian ...	654	1,01,518	155	654	94,285	144	4,13,522	138	4,38,951	151	25,429	...
8th do.	Great Indian Peninsula.	1,504	10,19,321	678	1,504	11,02,973	733	45,90,478	668	46,12,865	692	22,387	...
1st do.	Bombay, Baroda, and Central India.	461	3,50,106	759	461	3,65,000	792	14,29,547	678	15,27,986	744	98,439	...
	Total ...	4,088	17,41,013	426	4,160	18,77,128	451	76,90,727	412	79,21,317	430	2,30,590	...
	State.												
1886. 8th May.	East Indian	1,509	10,77,845	714	1,515	10,31,453	681	47,06,865	682	44,73,606	667	...	2,33,259
1st May.	Eastern Bengal ...	233	88,029	378	234	93,778	401	4,22,343	397	3,66,739	354	...	55,604
8th do.	Nalhati	27	1,308	48	27	1,325	49	7,034	57	8,092	67	1,058	...
1st do.	Northern Bengal ...	249	38,693	155	249	54,510	219	1,75,510	154	1,94,670	176	19,160	...
1st do.	Kaunia-Dharla ...	37	2,761	75	37	2,333	63	14,122	83	10,410	64	...	3,712
8th do.	Tirhoot	226	26,633	118	246	29,612	120	1,39,186	134	1,42,782	131	3,596	...
8th do.	Patna-Gya	57	11,198	196	57	11,684	204	51,054	195	60,352	238	9,298	...
8th do.	Cawnpore-Achnera ...	249	17,085	69	253	24,841	98	76,539	67	97,416	87	20,877	...
8th do.	Dildarnagar-Ghazipur .	12	1,544	129	12	1,335	111	5,759	105	5,586	105	...	173
1st do.	Rajputana-Malwa ...	1,411	3,33,497	236	1,411	3,61,000	256	14,69,537	228	16,31,000	261	1,61,463	...
1st do.	Wardha Coal ...	45	13,366	297	45	17,302	384	62,730	305	79,131	397	16,401	...
8th do.	Nagpur & Chhattisgarh.	149	56,050	376	149	59,326	398	2,50,969	368	2,40,528	365	...	10,441
8th do.	British Burma ...	254	75,509	297	327	52,315	160	2,69,055	232	2,43,407	168	...	25,648
8th do.	Sindia	75	7,734	104	75	7,859	105	36,074	106	35,688	108	...	386
8th do.	North-Western ...	1,803	6,85,459	380	1,803	4,59,044	254	33,69,102	409	22,71,959	284	...	10,97,143
8th do.	Amritsar-Pathankot ...	66	5,049	77	66	5,319	81	31,803	106	29,152	100	...	2,651
8th do.	Bareilly-Pilibhit ..	36	1,418	39	36	2,049	57	7,477	46	8,682	55	1,205	...
1st do.	Dacca	10	1,841	184	86	8,940	104	9,831	215	22,920	60	13,089	...
1st do.	Jorhat	23	506	22	30	598	20	1,713	16	2,646	20	933	..
8th do.	Cawnpore-Kalpi ...	...	...	...	42	3,909	93	...	...	11,930	64	11,930	...
	Total ...	4,962	13,67,680	276	5,185	11,97,079	231	63,99,838	282	54,63,090	238	...	9,36,748
	Grand Total (Guaranteed and State) ...	10,559	41,86,538	396	10,860	41,05,660	378	1,87,97,430	389	1,78,58,013	371	...	9,39,417
	Gross Estimated Expenses ...	...	...	...	...	...	...	86,46,818	179	91,07,587	190	...	...
	Net Receipts ...	...	...	...	...	...	...	1,01,50,612	210	87,50,426	181	...	14,00,186
	Assisted Companies.												
1886. 1st May.	Bengal Central ...	126	9,496	75	126	9,731	77	49,629	86	44,208	80	...	5,421
8th do.	Rohilkhand and Kumaon.	67	6,060	90	67	7,977	119	25,188	83	34,287	116	9,099	...
1st do.	Assam	78	3,329	43	78	7,285	93	20,377	57	30,944	90	10,567	...
8th do.	Southern Mahratta ...	214	11,751	55	316	33,724	107	52,824	54	1,38,796	99	85,972	...
1st do.	Bengal and North-Western.	303	29,080	96	303	46,650	154	1,25,183	90	2,04,941	153	79,758	...
8th do.	Tarakessur	22	5,226	238	22	5,530	251	31,074	309	31,423	319	349	...
	Total ...	810	64,942	80	912	1,10,897	122	3,04,275	82	4,84,599	120	1,80,324	...
	Native States.												
1886. 1st May.	Bhavnagar-Gondal ...	193	26,520	137	193	30,814	159	1,17,389	133	88,401	104	...	28,988
1st do.	Jodhpore	64	3,494	55	64	4,520	71	13,424	46	19,269	68	5,845	...
24th April	Nizam's	...	(a)	...	...	(a)	...	(b) 83,536	193	(c) 74,140	177	...	9,396
1st May.	Mysore	140	8,332	60	140	7,912	57	34,509	54	34,438	56	..	71
8th do.	Rajpura-Patiala ...	16	738	46	16	1,215	76	5,133	70	5,883	83	750	...
	Total ...	413	39,084	95	413	44,461	108	2,53,991	104	2,22,131	81	...	31,860

N.B.—As regards the figures in column "Total receipts from 1st April to date," audited figures have been availed of as far as possible.

(a) Return not received.
(b) Total receipts from 1st to 25th April 1885.
(c) Total receipts from 1st to 24th April 1886.

SIMLA,
The 26th May 1886.

FRED. FIREBRACE, Major, R.E.,
Under Secretary.

MADRAS: PRINTED AND PUBLISHED BY R. HILL, AT THE GOVERNMENT PRESS, FORT ST. GEORGE.

THE FORT ST. GEORGE GAZETTE.

No. 24. } **Published by Authority.** { FOUR RUPEES PER QUARTER.

MADRAS, FRIDAY EVENING, JUNE 18, 1886.

Part I-A.—Notifications under the Madras Local Boards and Municipal Acts.

Ootacamund, June 16, 1886.

APPOINTMENTS.

No. 180.—In exercise of the power conferred by section 121 of the Madras Local Boards Act, 1884, the Right Honorable the Governor in Council is pleased to appoint the undermentioned gentlemen to be Members of the Panchayats of the following Unions in the district of Bellary :—

HOSPET.

M.R.Ry. R. Venkoba Charlu, B.A.
Vaniyambadi Abdul Kadir Sahib Bahadur.
M.R.Ry. Chinni Lingappa Garu.
Mr. E. Stocking, Civil Apothecary.

CHITWADIGI.

M.R.Ry. C. Hanumantha Gowd Garu.
M.R.Ry. Hittinahall Sanjeevappa Garu.
M.R.Ry. Doddi Raghavendra Naick Garu.
M.R.Ry. Agali Basappa Garu.

No. 181.—In exercise of the power conferred by section 123 of the Madras Local Boards Act, 1884, the Right Honorable the Governor in Council is pleased to appoint M.R.Ry. R. Venkobacharlu, B.A., to be Chairman of the Panchayat of the Union of Hospet in the district of Bellary.

No. 182.—In exercise of the power conferred on him by section 10 of the Madras District Municipalities Act, 1884, the Right Honorable the Governor in Council is pleased to appoint the undermentioned gentleman to be a Municipal Councillor for the Municipality of Ongole :—

Mr. C. D. J. Carmichael, Acting Assistant Superintendent of Police.

No. 183.—The Right Honorable the Governor in Council approves, under section 14 of the Madras District Municipalities Act, 1884, of the appointment by election of the undermentioned gentlemen to be the Chairmen of the Municipal Councils of the Municipalities specified below :—

COONOOR.

Colonel W. N. Carey.

BELLARY.

M.R.Ry. A. Sabapathy Mudaliyar Avargal, Rao Bahadur.

Ootacamund, June 11, 1886.

NOTIFICATIONS.

No. 184.—In exercise of the power conferred by section 6 of the Madras Local Boards Act (V of 1884), the Right Honorable the Governor in Council is pleased to declare the villages in the Bellary District specified in the annexed schedule to be unions for the purposes of the said Act, and to direct that the provisions of the said Act regarding panchayats shall come into force in the said unions from the date of this notification.

2. In exercise of the power conferred by section 122 of the aforesaid Act, the Right Honorable the Governor in Council is pleased to declare that the maximum number of members to be appointed for

each panchayat of the said unions shall for the time being be as shown in the aforesaid schedule, and that they shall be appointed by the Governor in Council.

SCHEDULE.

Government Taluk.	Local Fund Unions.	Government Villages comprised in the Unions.	Maximum Number of Members.
Hospet ..	Hospet ..	Hospet ..	5
	Chitwadigi.	Chitwadigi ..	5

Ootacamund, June 12, 1886.

No. 185.—In accordance with the provisions of section 256 (1), Act IV of 1884, His Excellency the Governor in Council resolves to publish the following revised rules, framed under section 250 (1) (*b*) of the said Act, for the election of Chairmen of Municipal Councils, and hereby gives notice that any objection or suggestion which may be made in respect of such rules by any person interested therein will be considered on or after 1st of August next:—

Draft Rules framed under Section 250 (*b*) *of Act IV,* 1884, *for the election of Chairmen of Municipal Councils.*

1. The election of Chairman in any municipality shall take place at a meeting of the Council specially held for the purpose, of which at least fifteen days, and not more than thirty days' notice shall be given by the Collector.

2. Such election shall not be held unless at least three-fourths of the councillors be present at the meeting.

3. Every candidate for the office of Chairman shall be nominated by at least two councillors in the following form, which shall be sent to the Chairman holding office at least six days before the date of the meeting at which the new Chairman is to be elected:—

Municipality of

Election of Chairman to be held on
day of

We, the undersigned, nominate the undermentioned councillor as a candidate for the office of Chairman at the ensuing election:—

Name.	Abode.	Occupation.

Date.

(Signed)

4. On the day of the election the Chairman, or the councillor elected to the chair, shall read out the names of the candidates nominated for the office and at once proceed to the election, which shall be conducted in the following manner. If only one candidate has been nominated, he shall be considered to have been elected.

5. If more than one candidate be nominated, every councillor shall at the meeting write on a slip of paper the name of the candidate he wishes to be elected to the office of Chairman and place the same in a box so constructed that papers may be placed therein but not extracted without the box being opened.

6. The Chairman shall then open the box and count the votes given in the presence of the Council; the candidate having the largest number of votes shall be considered to have been elected to the office. In case of an equality of votes between two or more candidates at the top of the roll, the names of those candidates shall again be submitted to the Council and the votes taken in a manner similar to that described above. If, after the votes of the Council have been taken twice, two or more candidates have an equal number of votes, their names shall be submitted to the Collector, who will select one to fill the office.

7. Immediately after a meeting has been held for the purpose of electing a Chairman for any Council, the proceedings of such meeting shall be submitted to the Collector with the names of all the councillors who attended the same. No election shall be considered valid until fifteen days after the meeting at which such shall have been held.

8. The validity of any election may be questioned by a petition signed by at least three councillors put in before the Collector within seven days after any election, upon the receipt of which the Collector shall proceed to inquire, either by himself or by the divisional officer in charge of the division in which such municipality may be situated, into the validity of such election, which may only be questioned on the ground—

(*a*) That fraud, intimidation, or bribery was practised at such election.

(*b*) That the person whose election is questioned was, at the time the election was held, not qualified as a candidate.

(*c*) That he was not duly elected by a majority of votes.

If, after the conclusion of such inquiry, the Collector considers the election irregular, or if he considers the right of electing the Chairman should be withdrawn from the Council, he shall communicate his opinion to Government, who will pass orders on the matter.

E. F. WEBSTER,
Chief Secretary.

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MADRAS, FRIDAY EVENING, JUNE 18, 1886.

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Part II.—Miscellaneous Notifications.

APPOINTMENTS, LEAVE OF ABSENCE, &c.

POLICE.

Leave.—Privilege leave of absence for three months has been granted to Mr. T. Ramachendra Row, Assistant Commissioner of Police, Madras City, under section 138 of the Civil Leave Code, with effect from 21st June 1886.

Chief Office of Inspector-General of Police,
Madras, 12th June 1886.

H. W. H. COX, Lieut.-Col.,
Assistant Inspector-General of Police.

REVENUE.

Appointment.—Mr. E. H. Doveton, Second-grade Sub-Inspector in the Salt and Abkári Department, is appointed to act as Assistant Inspector and is posted to the Vattanam Circle.

Transfer.—Mr. J. Brown, Third-grade Assistant Inspector in the Salt and Abkári Department, is transferred from the Balacheruvu to the Konada Circle.

Transfer.—Mr. J. J. Brindley, Second-grade Assistant Inspector in the Salt and Abkári Department, is transferred from the Konada to the Balacheruvu Circle.

Madras, 9th June 1886.

Transfer.—Mr. W. Green (b), Inspector of Salt and Abkári Revenue, is transferred from the Kistnapatam to the Merkanam Circle.

Transfer.—Mr. T. R. Barter, Inspector of Salt and Abkári Revenue, is transferred to the Kistnapatam Circle with effect from the date of the expiry of the privilege leave granted to him and published at page 437 of Part II of the *Fort St. George Gazette* dated 17th March 1886.

C. A. GALTON,
Ag. Commissioner of Salt and Akbári Revenue.

Madras, 17th June 1886.

FOREST.

Casualty.—Mr. S. A. Newnan, Second-grade Forest Ranger, Acting First Grade, North Arcot District, died on the 6th instant.

Office of Consr. of Forests, in charge of Sn. Dn.,
Madras, 10th June 1886.

Leave.—M. Shums-ud-din Sahib, Acting Ranger, Fourth Grade, Coimbatore, South, is granted leave of absence for one month and ten days on medical certificate from 28th May 1886 under section 128 of the Civil Leave Code.

I. CAMPBELL WALKER, Lieut.-Col.,
Conservator of Forests in charge of Sn. Dn.

Office of Consr. of Forests, in charge of Sn. Dn.,
Madras, 17th June 1886.

SURVEY.

Leave.—Mr. T. A. Pope, First Assistant Superintendent of No. III Party, Madras Survey, has been granted privilege leave of absence for three months, under section 138 of the Code, from 1st July 1886.

H. CARDOZO,
Dy. Supt., for *Supt., Madras Survey.*

Survey Office,
Madras, 12th June 1886.

PUBLIC WORKS.

No. 17.—*Transfers.*—The following transfers are ordered :—

C. R. Chinnaswami Aiyangar, Overseer, First Grade, from the I Circle, Vizagapatam Division, to the V Circle for duty in the Chingleput Division—to join on return from sick leave.

Mr. E. S. Noronho, Overseer, Third Grade, from the II Circle, Buckingham Canal Division, to the IV Circle, West Coast Division—to join at his own expense.

No. 18.—*Postings.*—The following postings are ordered :—

Private W. H. Goddard, Overseer, First Grade, to the VI Circle.
Private J. Ruck, Overseer, First Grade, to the III Circle.
Gunner T. Murphy, Overseer, First Grade, to the V Circle.
To join at the public expense.

No. 19.—*Transfers.*—The following transfers are ordered :—

Sergeant R. W. MacAlister, Sub-Engineer, Third Grade, substantive *pro tem.*, from the IV Circle, West Coast Division, to the V Circle for duty in the Presidency Division—to join at the public expense on relief by Sergeant D. Mackintosh.

Sergeant D. Mackintosh, Supervisor, First Grade, from the V Circle, Presidency Division, to the IV Circle, West Coast Division, to relieve Sergeant R. W. MacAlister—to join at the public expense.

J. H. M. SHAW-STEWART, Colonel, R.E.,
Chief Engineer, Public Works Department.

17th June 1886.

GENERAL NOTIFICATIONS.

OBSERVATORY TIME NOTICE.

The Fort time signal gun failed at noon on Saturday the 12th instant. It was fired correctly on all other occasions throughout the week ending with Wednesday the 16th instant.

N. R. POGSON,
Government Astronomer.

SANITARY COMMISSIONER.

RETURN showing the BIRTHS and DEATHS registered in the MUNICIPALITIES of the MADRAS PRESIDENCY containing 25,000 inhabitants and upwards for the week ending 14th May 1886.

Municipalities.	Population.	BIRTHS. Class. Christians.	Muhammadans.	Hindus.	Other Classes.	Total Births. M.	F.	Total.	DEATHS. Class. Christians.	Muhammadans.	Hindus.	Other Classes.	Total Deaths. M.	F.	Total.	Causes of Death. Cholera.	Small-pox.	Fevers.	Bowel-complaints.	Injuries.	All other Causes.	Ratio per 1,000 of Population per Annum. Total Births.	Total Deaths.
Trichinopoly ..	84,449	5	2	22	..	16	13	29	3	3	19	..	18	7	25	..	1	2	5	..	17	17·8	15·3
Madura ..	76,847	2	3	63	..	31	37	68	3	1	48	..	23	29	52	..	..	8	7	..	37	46·0	35·1
Calicut ..	57,085	1	13	21	..	24	11	35	..	8	24	..	12	20	32	8	4	2	6	..	12	31·8	29·1
Tanjore ..	54,745	1	1	25	..	15	12	27	1	1	16	..	13	5	18	..	..	3	5	..	10	25·6	17·0
Negapatam ..	53,855	2	1	10	..	6	7	13	1	3	14	..	8	10	18	..	2	3	2	..	11	12·5	17·4
Bellary ..	53,460	6	10	20	..	24	12	36	1	15	10	..	12	14	26	..	2	3	..	4	17	35·0	25·2
Salem ..	59,631	1	3	39	..	21	22	43	..	3	14	..	6	11	17	..	1	5	2	2	7	37·4	14·8
Kumbakonam ..	50,098	..	1	19	..	9	11	20	..	..	20	..	9	11	20	..	..	4	5	..	11	20·7	20·7
Cuddalore ..	43,545	..	..	21	..	11	10	21	..	..	13	..	5	8	13	..	1	4	2	1	5	25·0	15·5
Coimbatore ..	38,967	5	1	24	..	18	12	30	1	1	30	..	18	14	32	..	5	8	5	..	14	40·0	42·7
Vellore ..	37,491	1	..	11	..	7	5	12	1	1	6	..	3	5	8	..	..	2	..	..	6	16 6	11·0
Conjeeveram ..	37,275	..	1	30	..	16	15	31	..	1	29	..	12	18	30	..	..	8	3	..	19	43·2	41·8
Palghat ..	36,339	..	6	19	..	13	12	25	..	..	14	..	5	9	14	..	2	2	..	..	10	35·7	20·0
Masulipatam ..	35,056	..	2	15	..	11	6	17	..	1	10	..	7	4	11	..	..	3	..	1	7	25·2	16·3
Mangalore ..	32,099	5	2	6	..	8	5	13	2	1	12	..	5	10	15	..	..	4	..	1	10	21·0	24·2
Vizagapatam ..	30,291	..	4	24	..	10	18	28	2	..	5	..	3	4	7	..	..	2	1	..	4	48 0	12·0
Cocanada ..	30,441	..	..	13	..	4	9	13	..	..	11	..	7	4	11	..	4	1	..	..	6	22·2	18·7
Nellore ..	27,505	..	4	11	..	5	10	15	1	..	7	..	6	2	8	..	..	2	..	..	6	28·3	15·1
Tellicherry ..	26,410	1	7	16	..	18	6	24	2	..	6	..	3	5	8	..	..	..	..	..	8	47·2	15·7
Cannanore ..	26,386	1	6	12	..	7	12	19	..	7	3	..	6	4	10	..	..	3	..	..	7	37·4	19·7
Ellore ..	25,092	..	4	9	..	8	5	13	1	2	9	..	7	5	12	..	1	2	1	..	8	26·9	24·8
Ootacamund ..	12,335	1	..	3	3	6	1	7	4	..	3	3	5	5	10	..	..	4	..	..	6	29·5	42·1
Total ..	929,402	32	71	433	3	288	251	539	23	48	323	3	193	204	397	8	23	75	44	9	238	30·1	22·2

Office of Sanitary Commissioner, Madras,
11th June 1886.

GEO. DIQUE,
Manager and Assistant, Office of Sanitary Commissioner, Madras.

SANITARY COMMISSIONER.

RETURN showing the BIRTHS and DEATHS in the DISTRICTS of the MADRAS PRESIDENCY during the month of January 1886.

Population according to Census of 1881.	District.	Population from which Returns were received.	BIRTHS. Class. Christians.	BIRTHS. Class. Muhammadans.	BIRTHS. Class. Hindus.	BIRTHS. Class. Other Classes.	BIRTHS. Total Births. Males.	BIRTHS. Total Births. Females.	BIRTHS. Total Births. Total.	DEATHS. Class. Christians.	DEATHS. Class. Muhammadans.	DEATHS. Class. Hindus.	DEATHS. Class. Other Classes.	DEATHS. Total Deaths. Males.	DEATHS. Total Deaths. Females.	DEATHS. Total Deaths. Total.	Causes of Death. Cholera. M.	Causes of Death. Cholera. F.
1,749,604	Ganjam ..	845,456	1	18	1,268	..	632	655	1,287	2	6	1,073	..	596	485	1,081	3	4
2,485,141	Vizagapatam..	1,557,093	2	21	2,520	..	1,265	1,278	2,543	3	8	2,436	1	1,258	1,190	2,448	105	110
1,791,512	Godavari ..	1,791,512	..	23	2,891	25	1,444	1,495	2,939	1	57	3,542	..	1,849	1,751	3,600	112	107
1,548,480	Kistna ..	1,548,480	60	214	3,626	..	1,919	1,981	3,900	34	130	3,283	..	1,834	1,613	3,447	320	235
1,220,236	Nellore ..	1,159,244	33	115	2,445	..	1,333	1,260	2,593	16	95	1,645	..	889	867	1,756	..	..
405,848	Madras ..	405,848	92	156	1,019	..	639	628	1,267	100	151	1,173	..	716	708	1,424	..	..
981,381	Chingleput ..	981,381	21	39	2,992	..	1,536	1,516	3,052	32	33	2,504	..	1,308	1,261	2,569	1	..
1,814,738	South Arcot..	1,814,738	31	51	2,800	3	1,476	1,409	2,885	26	40	2,726	1	1,469	1,324	2,793	1	1
1,215,033	Trichinopoly..	1,215,033	119	42	2,399	..	1,286	1,274	2,560	79	51	2,035	..	1,113	1,052	2,165	..	..
2,130,383	Tanjore ..	2,130,383	126	207	4,342	..	2,371	2,304	4,675	115	182	3,721	..	2,050	1,968	4,018	3	5
2,168,680	Madura ..	1,294,382	88	172	2,879	..	1,625	1,514	3,139	43	132	2,384	..	1,258	1,301	2,559	..	..
1,699,747	Tinnevelly ..	1,699,747	233	223	3,731	..	2,204	1,983	4,187	186	199	3,391	..	1,918	1,858	3,776	..	..
709,305	Kurnool ..	678,551	15	197	1,583	4	922	877	1,799	11	119	1,146	3	653	626	1,279	..	..
1,121,038	Cuddapah ..	1,121,038	5	255	2,186	..	1,248	1,198	2,446	3	143	1,855	..	1,060	941	2,001	..	..
736,807	Bellary ..	736,807	8	223	1,808	..	1,052	987	2,039	4	114	1,014	..	593	539	1,132	..	..
599,889	Anantapur ..	599,889	..	87	1,550	..	852	785	1,637	..	48	915	..	486	477	963	..	..
1,817,814	North Arcot..	1,797,398	8	139	3,986	..	2,112	2,021	4,133	4	103	3,259	..	1,733	1,633	3,366	..	..
1,599,595	Salem ..	1,599,595	18	82	4,106	..	2,170	2,036	4,206	27	78	2,855	2	1,533	1,429	2,962	3	1
1,657,690	Coimbatore ..	1,657,690	21	76	3,319	..	1,768	1,648	3,416	14	65	2,172	..	1,151	1,100	2,251	..	..
91,034	Nilgiri ..	91,034	10	9	89	1	64	45	109	15	6	85	..	64	42	106	..	..
959,514	South Canara.	955,842	127	214	1,805	27	1,110	1,063	2,173	114	228	2,238	33	1,356	1,257	2,613	..	..
2,365,035	Malabar ..	2,354,234	105	1,213	2,459	..	1,951	1,826	3,777	78	1,276	2,789	1	2,327	1,817	4,144	102	111
30,868,504	Total ..	28,035,375	1,123	3,776	55,803	60	30,979	29,783	a 60,762	907	3,264	48,241	41	27,214	25,239	b 52,453	650	574

a Inclusive of 20 Europeans and 52 Eurasians.

b Inclusive of 18 Europeans and 42 Eurasians and 1,297 born dead.

[Continued on next page.]

RETURN showing the BIRTHS and DEATHS in the DISTRICTS of the MADRAS PRESIDENCY during the month of January 1886—(*Continued*).

Population according to Census of 1881.	District.	Population from which Returns were received.	DEATHS—(*Continued*). Causes of Death—(*Continued*). Small-pox.		Fevers.		Bowel complaints.		Injuries. Suicides.		Wounds.		Accidents.		Snake-bite.		Killed by Wild Beasts.		All other Causes.		Ratio per 1,000 of Population per Annum. Total Births.	Total Deaths.	Average Ratio of previous Five Years ending 1885. Births.	Deaths.
			M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.				
..,749,604	Ganjam ..	845,456	31	23	409	335	17	12	1	..	1	1	9	5	1	..	5	..	119	105	18·2	15·3	31·2	26·4
2,485,141	Vizagapatam..	1,557,093	57	44	929	882	12	24	..	..	1	..	30	16	..	..	..	..	124	114	19·6	18·8	17·8	15·4
1,791,512	Godavari ..	1,791,512	88	68	972	918	37	34	2	8	1	4	5	4	..	2	..	..	632	606	19·7	24·1	17·5	17·8
1,548,480	Kistna ..	1,548,480	32	20	694	608	21	20	2	7	6	2	19	21	3	2	..	..	737	698	30·2	26·7	25·4	20·5
1,220,236	Nellore ..	1,159,244	41	54	463	450	16	17	4	9	..	1	8	15	2	1	3	2	352	318	26·8	18·1	20·5	14·9
405,848	Madras ..	405,848	..	..	176	203	141	148	..	1	..	..	4	6	..	1	..	..	395	349	37·4	42·1	36·5	46·7
981,381	Chingleput ..	981,381	7	11	286	309	224	231	2	..	2	3	27	14	3	1	1	1	755	691	37·3	31·4	35·0	30·4
1,814,738	South Arcot..	1,814,738	51	56	459	434	44	49	1	5	2	2	30	19	15	1	..	1	866	756	19·0	18·4	19·1	27·9
1,215,033	Trichinopoly..	1,215,033	19	16	247	208	27	33	1	3	1	2	5	12	2	..	..	..	811	778	25·2	21·3	24·7	35·0
2,130,383	Tanjore ..	2,130,383	22	14	148	151	68	55	5	4	3	..	15	20	11	5	1	..	1,774	1,714	26·3	22·6	24·5	45·9
2,168,680	Madura ..	1,294,382	36	51	545	560	33	20	2	7	2	2	13	24	6	1	..	..	621	636	29·1	23·7	25·1	29·2
1,699,747	Tinnevelly ..	1,699,747	78	82	274	246	102	117	8	7	4	5	14	14	6	3	..	..	1,432	1,384	29·5	26·6	27·2	46·4
709,305	Kurnool ..	678,551	10	14	456	436	9	9	1	5	2	..	8	11	2	3	..	1	165	147	31·8	22·6	28·5	23·3
1,121,038	Cuddapah ..	1,121,038	14	10	754	639	42	33	1	4	1	..	9	19	3	..	..	..	236	236	26·1	21·3	25·1	19·8
736,807	Bellary ..	736,807	18	13	167	157	29	30	1	..	2	2	10	6	1	..	..	..	365	331	33·2	18·4	26·4	22·5
599,889	Anantapur ..	599,889	22	17	58	52	13	8	1	1	1	1	4	10	..	..	..	..	387	388	32·7	19·2	28·9	19·6
1,817,814	North Arcot..	1,797,398	84	82	740	660	48	49	3	3	4	2	20	22	7	1	5	..	822	814	27·6	22·4	24·5	22·4
1,599,595	Salem ..	1,599,595	47	44	601	608	41	31	2	1	13	12	12	18	11	2	1	1	802	711	31·5	22·2	27·0	22·5
1,657,690	Coimbatore ..	1,657,690	22	12	508	472	61	51	4	3	6	6	8	24	3	2	..	..	539	530	24·7	16·2	21·8	22·8
91,034	Nilgiri ..	91,034	..	..	45	33	4	1	..	..	..	..	..	..	..	..	..	..	15	8	14·3	13·9	13·1	11·9
959,514	South Canara.	955,842	12	15	431	404	196	147	4	4	..	..	17	12	5	1	..	..	691	674	27·2	32·7	27·4	22·8
2,365,035	Malabar ..	2,354,234	215	144	963	752	255	197	9	2	6	2	23	15	21	2	..	..	733	592	19·2	21·1	19·1	27·7
30,868,504	Total ..	28,035,375	906	790	10,325	9,517	1,440	1,316	54	74	58	47	290	307	102	28	16	6	13,373	12,580	26·0	22·6	24·1	26·2

Office of Sanitary Commissioner, Madras, 1st June 1886.

W. FARQUHAR, M.B., Dy. Surgn.-Genl., *Ag. Sany. Commr. for Madras.*

RETURN showing the BIRTHS and DEATHS registered in the MUNICIPALITIES

Districts.	Municipal Towns.	Population, Census of 1881.	BIRTHS. Class. Christians.	BIRTHS. Class. Muhammadans.	BIRTHS. Class. Hindus.	BIRTHS. Class. Other Classes.	BIRTHS. Total Births. M.	BIRTHS. Total Births. F.	BIRTHS. Total Births. Total.	DEATHS. Class. Christians.	DEATHS. Class. Muhammadans.	DEATHS. Class. Hindus.	DEATHS. Class. Other Classes.	DEATHS. Total Deaths. M.	DEATHS. Total Deaths. F.	DEATHS. Total Deaths. Total.	Cholera. M.	Cholera. F.
Ganjam.	Chicacole ..	18,302	..	..	38	..	17	21	38	..	3	45	..	13	35	48	..	..
	Berhampore ..	23,599	1	2	68	..	29	42	71	2	1	42	..	28	17	45	..	..
Vizagapatam.	Vizagapatam ..	30,291	1	8	57	..	39	27	66	2	2	63	..	34	33	67	..	..
	Bimlipatam ..	8,582	..	..	13	..	7	6	13	..	..	15	..	9	6	15	..	..
	Vizianagrum ..	22,577	..	5	62	..	32	35	67	..	..	56	..	35	21	56	..	..
	Anakapalle ..	13,341	..	1	39	..	19	21	40	..	..	20	..	12	8	20	..	2
Godavari.	Cocanada ..	30,441	..	2	96	..	33	65	98	..	2	51	..	18	35	53	..	1
	Rajahmundry .	24,555	..	3	62	..	28	37	65	1	9	65	..	35	40	75	8	4
	Ellore ..	25,092	..	9	57	..	28	38	66	..	43	87	..	69	61	130	24	20
Kistna ..	Masulipatam ..	35,056	2	9	29	..	16	24	40	2	12	44	..	34	24	58	..	..
	Guntur ..	19,646	..	11	76	..	43	44	87	..	12	122	..	71	63	134	31	27
Nellore	Nellore ..	27,505	2	5	56	..	36	27	63	1	9	41	..	26	25	51	..	..
	Ongole ..	9,200	3	4	31	..	24	14	38	..	3	16	..	9	10	19	..	..
Madras ..	Madras ..	405,848	92	156	1,019	..	639	628	1,267	100	151	1,173	..	716	708	1,424	..	..
Chingleput.	Conjeeveram ..	37,275	..	5	87	..	50	42	92	..	1	91	..	53	39	92	..	..
South Arcot.	Cuddalore ..	43,545	1	3	72	..	35	41	76	..	3	37	..	23	17	40	..	..
	Chidambaram ..	19,837	..	2	36	1	26	13	39	..	4	43	..	20	27	47	..	..
Trichinopoly.	Trichinopoly ..	84,449	19	14	126	..	86	73	159	17	14	125	..	87	69	156	..	..
	Srirangam ..	19,773	1	..	61	..	27	35	62	1	..	78	..	35	44	79	..	..
Tanjore.	Tanjore ..	54,745	1	4	68	..	33	40	73	1	8	86	..	44	51	95	..	..
	Kumbakonam ..	50,098	3	2	149	..	71	83	154	3	2	151	..	73	83	156	..	..
	Mayavaram ..	23,044	..		69	..	28	41	69	2	..	62	..	37	27	64	..	..
	Negapatam ..	53,855	10	14	65	..	48	41	89	12	35	96	..	65	78	143	..	..
	Mannargudi ..	19,409	1	1	62	..	32	32	64	1	..	47	..	25	23	48	..	1
Madura ..	Madura ..	76,847	15	26	231	..	147	125	272	5	18	198	..	117	104	221	..	..
	Dindigul ..	14,182	14	10	39	..	33	30	63	..	2	34	..	20	16	36	..	..
Tinnevelly.	Tinnevelly ..	23,221	1	3	57	..	33	28	61	..	1	57	..	26	32	58	..	..
	Palamcottah ..	17,964	5	..	26	..	15	16	31	1	..	27	..	14	14	28	..	..
	Tuticorin ..	16,281	21	4	30	..	27	28	55	16	4	35	..	29	26	55	..	..
Kurnool ..	Kurnool ..	20,329	2	27	30	..	30	29	59	2	19	14	..	21	14	35	..	..
Cuddapah ..	Cuddapah ..	18,982	1	14	17	..	24	8	32	1	11	36	..	27	21	48	..	..
Bellary ..	Bellary ..	53,460	6	34	49	..	40	49	89	3	32	47	..	53	29	82	..	..
	Adoni ..	22,441	1	24	39	..	35	29	64	1	14	26	..	16	25	41	..	..
Anantapur.	Anantapur ..	4,907	..	9	11	..	9	11	20	..	..	10	..	4	6	10	..	..
North Arcot.	Vellore ..	37,491	4	11	98	..	51	62	113	1	12	61	..	38	36	74	..	..
	Walajapet ..	10,387	..	7	34	..	23	18	41	..	4	28	..	13	19	32	..	..
Salem ..	Salem ..	59,631	5	11	116	..	69	63	132	6	8	90	..	55	49	104	..	..
Coimbatore.	Coimbatore ..	38,967	7	12	119	..	71	67	138	5	3	111	..	60	59	119	..	..
	Erode ..	9,864	2	1	18	..	13	8	21	..	2	11	..	9	4	13	..	..
	Karur ..	9,205	..	4	30	..	23	11	34	..	..	22	..	9	13	22	..	..
Nilgiris.	Ootacamund ..	12,335	9	6	9	1	13	12	25	15	3	10	..	18	10	28	..	..
	Coonoor ..	4,778	..	1	2	..	..	3	3	..	2	3	..	4	1	5	..	..
South Canara.	Mangalore ..	32,099	15	16	27	..	30	28	58	24	14	32	..	35	35	70	..	..
Malabar.	Tellicherry ..	26,410	4	31	27	..	27	35	62	3	14	21	..	25	13	38	..	..
	Calicut ..	57,085	17	63	72	..	86	66	152	7	62	109	..	108	70	178	..	..
	Palghat ..	36,339	1	7	72	..	41	39	80	1	12	53	..	34	32	66	..	..
	Cochin ..	15,698	37	8	6	..	30	21	51	27	13	6	..	20	26	46	..	..
	Cannanore ..	26,386	17	74	35	..	60	66	126	7	40	24	1	40	32	72	..	..
	Total ..	1,745,354	321	663	3,692	2	2,356	2,322	4,678a	270	604	3,721	1	2,366	2,230	4,596b	63	55
Cantonments.	Bangalore ..	81,810	25	26	77	..	67	61	128	15	9	40	..	29	35	64	..	..
	Kamptee ..	50,967	3	15	33	32	43	40	83	2	12	18	17	31	18	49	..	..
	Secunderabad .	52,000	6	16	52	..	42	32	74	5	12	49	..	33	33	66	..	..
	Total ..	184,777	34	57	162	32	152	133	285	22	33	107	17	93	86	179	..	..

a Inclusive of 17 Europeans
b Do. 14 do.

Office of Sanitary Commissioner, Madras, 1st June 1886.

of the MADRAS PRESIDENCY during the month of January 1885.

DEATHS. Causes of Death. Small-pox. M.	Small-pox. F.	Fevers. M.	Fevers. F.	Bowel-complaints. M.	Bowel-complaints. F.	Injuries. Suicides. M.	Suicides. F.	Wounds. M.	Wounds. F.	Accidents. M.	Accidents. F.	Snake-bite. M.	Snake-bite. F.	Killed by Wild Beasts. M.	Killed by Wild Beasts. F.	All other Causes. M.	All other Causes. F.	Ratio per 1,000 of Population per Annum. Total Births.	Total Deaths.	Average Ratio of previous Five Years ending 1885. Births.	Deaths.
..	..	3	14	1	1	..	..	..	..	..	1	..	..	..	..	9	19	24·9	31·4	16·3	12·4
..	..	4	7	6	3	..	..	..	..	1	..	..	..	..	..	17	7	36·1	22·8	30·0	32·5
..	..	4	6	5	4	..	..	1	..	2	..	..	..	..	..	22	23	26·1	26·5	31·2	30·1
..	..	2	1	..	..	..	..	..	..	..	..	..	..	..	..	7	5	18·1	20·9	26·5	22·3
6	..	10	8	1	1	..	..	..	..	..	1	..	..	..	..	18	11	35·6	29·7	29·2	25·5
..	1	3	4	..	..	..	..	..	..	..	..	..	..	..	..	9	1	35·9	17·9	27·8	23·3
..	2	..	..	1	1	..	..	1	..	1	1	..	..	..	..	15	30	38·5	20·8	32·7	21·6
1	..	10	6	2	9	..	..	..	..	1	1	..	..	..	..	13	20	31·7	36·6	28·7	25·4
1	1	8	12	12	8	..	..	..	..	..	..	..	..	..	..	24	20	31·5	62·1	25·3	32·5
..	..	11	9	2	..	..	1	2	..	1	..	..	..	..	..	18	14	24·6	35·7	21·5	13·6
..	..	5	5	..	..	..	..	..	..	1	..	..	1	..	..	34	30	29·7	45·8	19·5	14·6
3	5	5	5	..	..	..	..	..	..	..	..	..	..	..	..	18	15	27·4	22·2	23·9	20·5
..	..	1	1	..	..	..	..	..	..	..	..	..	..	..	..	8	9	49·5	24·7	26·0	30·0
..	..	176	203	141	148	..	1	..	..	4	6	..	1	..	..	395	349	37·4	42·1	37·7	48·0
..	..	13	8	9	6	..	..	..	..	1	1	..	..	..	..	30	24	29·6	29·6	33·4	38·9
..	..	5	4	3	1	..	..	..	..	..	..	..	..	..	..	15	12	20·9	11·0	31·4	34·1
1	1	6	12	2	2	..	..	..	..	..	..	..	..	..	..	11	12	23·5	28·4	17·5	32·6
1	2	15	11	14	18	..	..	..	..	..	2	..	..	..	..	57	36	22·5	22·1	17·7	50·3
..	..	8	5	1	7	..	..	..	..	..	..	..	..	..	..	26	32	37·6	47·9	29·1	55·7
1	1	11	9	12	13	..	..	..	..	..	..	..	..	..	..	20	28	16·8	20·8	17·9	46·6
..	..	7	10	14	8	..	..	..	..	..	1	..	..	..	..	52	64	30·8	37·3	26·5	59·1
..	..	5	4	7	2	..	..	..	..	..	..	..	..	..	..	25	21	35·9	33·3	25·5	49·4
4	1	12	18	13	19	..	..	..	..	..	..	1	..	..	..	35	40	10·9	31·8	20·2	53·9
..	..	3	7	3	5	..	..	..	..	..	..	..	..	..	..	19	10	39·5	29·6	27·1	53·7
..	..	17	17	18	9	..	1	..	..	2	1	..	..	..	..	80	76	42·4	34·5	28·1	35·9
2	..	4	2	..	1	..	..	..	..	..	..	1	..	..	..	13	13	53·3	30·4	35·5	25·3
1	..	1	2	3	16	..	..	..	..	..	1	..	..	..	..	21	19	31·5	29·9	26·3	45·9
7	..	2	..	2	4	..	..	..	..	..	..	..	..	..	..	10	10	20·7	18·7	31·2	39·9
..	6	3	6	8	6	..	..	..	..	..	..	..	..	..	..	15	10	40·5	40·5	31·6	57·4
..	..	14	5	1	2	..	..	..	..	..	..	..	..	..	..	6	7	34·8	20·6	31·2	31·8
..	..	5	4	3	1	..	..	..	..	..	..	..	..	..	..	19	16	20·2	30·3	20·8	29·0
..	1	17	10	9	4	..	..	..	..	..	..	..	..	..	..	27	14	19·9	18·4	15·4	22·4
1	..	3	9	..	1	..	..	1	1	1	..	..	..	..	..	10	14	34·2	21·9	32·0	19·2
..	..	..	..	..	..	..	..	1	1	..	..	..	..	..	..	3	5	48·9	24·4	46·4	29·3
2	2	12	10	2	2	..	..	..	..	1	1	1	..	..	..	20	21	36·1	23·6	21·7	28·1
4	..	5	3	..	..	..	..	..	..	..	..	..	..	1	..	6	13	47·3	36·9	36·9	30·0
..	..	16	15	8	6	..	..	..	..	..	..	..	..	..	..	31	28	26·5	20·9	21·5	21·7
5	4	12	17	9	6	..	..	..	..	..	..	..	..	..	..	34	32	42·5	36·6	33·8	28·0
..	..	..	..	1	..	..	..	..	..	..	..	..	..	..	..	8	4	25·5	15·8	27·9	35·2
..	..	..	2	2	3	..	..	..	1	..	..	..	..	..	..	7	7	44·3	28·6	41·7	54·7
..	..	6	5	4	1	..	..	..	..	..	..	..	..	..	..	8	4	24·3	27·2	34·0	24·3
..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	4	1	7·5	12·5	20·0	27·6
..	..	10	9	6	8	..	1	..	..	..	..	..	..	..	..	19	17	21·6	26·1	29·5	26·1
..	..	1	3	2	..	..	..	1	2	..	..	..	..	..	..	21	8	28·1	17·2	24·9	21·3
17	19	5	5	23	11	..	1	1	..	..	1	..	..	..	..	62	34	31·9	37·4	29·6	25·6
3	1	12	8	..	..	..	1	1	..	1	..	..	..	..	..	17	22	26·4	21·7	37·9	36·9
2	1	1	3	1	2	..	..	..	..	..	..	..	..	..	..	16	20	38·3	35·1	38·9	64·2
..	..	11	5	1	4	..	..	..	..	..	..	..	..	..	..	28	23	57·3	32·7	35·9	28·1
56	48	484	509	352	337	..	5	9	5	17	18	3	2	1	..	1,382	1,250	32·1	31·5	29·1	37·7
..	..	4	5	..	4	..	..	..	..	..	..	..	..	..	..	25	26	18·7	9·3	25·0	16·4
..	..	15	8	1	..	..	..	..	..	..	..	..	..	..	..	15	10	19·5	11·5	30·1	16·4
..	..	14	22	4	..	..	..	..	1	..	..	..	..	..	..	15	10	14·7	15·2	18·0	5·4
..	..	33	35	5	4	..	..	..	1	..	..	..	..	..	..	55	46	18·5	11·6	24·4	16·1

and 46 Eurasians.
and 38 do. and 160 born dead.

W. FARQUHAR, M.B., Dy. Surgn.-Genl., *Ag. Sany. Commr. for Madras.*

MUHAMMADAN EDUCATIONAL ENDOWMENTS.

The Government Committee now considering the question of the appropriation of Muhammadan Educational Endowments are ready to receive representations from any persons who may have complaints to make on that subject. The question under investigation is, whether in endowments made by Nawabs or Rajahs for Durgahs, Shrines, &c., there are any cases where a portion was set aside originally for educational purposes, but is now not being so employed.

2. Petitions should be addressed to the President, Muhammadan Endowment Committee, Fort St. George, Madras.

اشتہار

منجانب اهل اسلام واسطے تربیت وتعلیم کے چهوڑ ے گئے اوقاف کے محاصل کا مبلغ اُس بابت مین صرف کیا جاتا هی یا نهین سو سوال پر غور وتامل کرتے یهه اشتهار دیا جاتا هی کہ اگر کوئی صاحب اس باب مین فریاد کرنا چاهتے هین تو گورنمنت کمیٹی انکے اظهارات کو سننے تیار هی*

زیر دریافت هی سو سوال اس معنی پر بنا پایا هی کہ آیا نوابون یا راجگون سے درگاهون - آستانون وغیره کے لئے چهوڑے گئے اوقاف مین سے کوئی ایك ایسی بابت هی کہ جسکے لئے دربارۂ تعلیم کچهہ مبلغ فی الاصل مقرر کیا گیا تها مگر اب وه مبلغ اس کام مین صرف نهین کیا جاتا هی*

چاهئے کہ عرایض محامڈن اڈیوکیشن کے کمیٹی کے پریسیڈنٹ کے بنام قلعہ مدراس کو روانہ کئے جاوین*

JUDICIAL NOTIFICATIONS.

UNCLAIMED CURRENCY NOTE.

Notice is hereby given that a Currency Note for Rupees (100) one hundred has been found and remains unclaimed in this office. Any person claiming this note is required to appear before the undersigned and prove his claim thereto within one month from the date of this notice.

Madras, Police Commissioner's Office,
2nd June 1886.

T. WELDON, Colonel,
Commissioner of Police.

INFORMATION WANTED.

The relations of Ann Clark or Clarke, daughter of Sergeant William Clark, who died in 1854 when his Regiment—the 25th Foot—was stationed in Madras, are anxious to hear of her.

Undersigned will be glad to receive and communicate any information regarding the said Ann Clark.

City Police Office,
Madras, 15th June 1886.

T. WELDON, Colonel,
Commissioner of Police.

FINANCIAL NOTIFICATIONS.

STATEMENT OF THE AFFAIRS OF THE BANK OF MADRAS FOR THE WEEK ENDING 12TH JUNE 1886.

LIABILITIES.

	RS.	A.	P.	RS.	A.	P.
Capital paid up				50,00,000	0	0
Reserve Fund				8,75,000	0	0
Public Deposits at Head Office	17,78,024	13	0			
Public Deposits at Branches	21,29,251	9	11			
				39,07,276	6	11
Other Deposits at Head Office and Branches				1,08,29.469	12	6
Bank Post Bills, &c.				5,04,804	11	0
Sundries				9,66,893	11	9
Total ..				2,20,83,444	10	2

ASSETS.

	RS.	A.	P.
Government Securities	12,68,396	1	0
Other authorized Investments	....		
Loans on Government and other authorized Securities	64,54,731	8	7
Accounts of Credit on Government and other authorized Securities	11,53,315	3	6
Bills discounted and purchased ..	60,44,431	9	5
Balances with other Banks	1,05,742	0	5
Bullion	49,310	9	8
Dead Stock	3,76,873	3	3
Stamps	7,279	8	5
Sundries	47,826	14	5
	1,55,07,906	10	8
Cash and Currency Notes at Head Office and Branches	65,75,537	15	6
Total ..	2,20,83,444	10	2

(By order of the Directors.)

J. L. DUFFIELD,
Chief Accountant.

D. A. J. CROMBIE,
Secretary and Treasurer.

Bank of Madras, Madras, 18th June 1886.

LOST CURRENCY NOTE.

The following currency note of the Government of India, Madras Circle, is stated to have been lost, and payment of its value has been claimed by the persons whose names are placed against the number. Any other person having this note in his possession, or claiming a right to it, is warned to communicate at once with the undersigned.

Register Number.	Number of the Note.	Value.	Name of Claimant.
	Note wholly lost or destroyed.		
5	B/93 15387	RS. 100	Messrs. T. A. Taylor and Co., Madras.

10th June 1886.

C. HALL, *Chief Superintendent,*
In charge of Paper Currency Department.

EDUCATIONAL NOTIFICATIONS.

MADRAS MEDICAL COLLEGE.

The annual distribution of prizes will take place at the College on Wednesday the 30th June 1886 at ½ past 5 P.M.

Rev. W. Miller, M.A., LL.D., C.I.E., will preside.

Professor H. Allison, M.D., will deliver the address.

Madras, 18th June 1886.

JAS. KEESS, M.D.,
Principal, Medical College.

ADDITION TO THE GRANT-IN-AID CODE.

It is hereby notified that the Right Honorable the Governor in Council has been pleased to add the following words to clause (1), (*a*), of article 3, chapter I of the Grant-in-Aid Code:—

"and to Mappilla schools and for Mappillas reading in other schools, provided such Mappilla schools are not situated in municipalities."

Office of Director of Public Instruction,
Madras, 25th May 1886.

D. DUNCAN,
Acting Director of Public Instruction.

COLLEGE OF ENGINEERING, MADRAS.

ROLL OF CANDIDATES who obtained CERTIFICATES of QUALIFICATION as SUPERVISOR and OVERSEER at the Annual Examination of the College of Engineering, Madras, held in May 1886.

No.	Name.	For what Grade.	Vernaculars with which acquainted.	Remarks.
1	W. L. Emery, Corporal, Royal Scots Fusiliers.	Supervisor, P.W.D.	Tamil	
2	M. V. Krishnaswami Aiyar	Do. ..	Tamil and Telugu ..	
3	B. Reynolds, Lance Corporal, 12th Royal Lancers.	Do. ..	Tamil	
4	A. V. Krishna Menon	Do. ..	Tamil and Malayalam.	
5	P. King, Lance Corporal, Hampshire Regiment.	Do. ..	Tamil	
6	J. W. Jones, Lance Corporal, Hampshire Regiment.	Overseer, P.W.D. ..	Telugu	
7	E. C. M. Mascarenhas	Supervisor, P.W.D.	Tamil	
8	J. Knox, Gunner, Royal Horse Artillery ..	Do. ..	Telugu	
9	G. Padmanabha Aiyar	Do. ..	Tamil and Telugu ..	
10	A. Narayanaswami Nayudu	Do. ..	Do. ..	College Students.
11	M. Gnanaprakasa Pillai	Do. ..	Do.	
12	L. A. Barboza	Overseer, P.W.D. ..	Tamil and Malayalam.	
13	K. Sankarasubha Annavi	Do. ..	Tamil and Telugu ..	
14	A. B. Colkers	Do. ..	Tamil	
15	A. Kuppuswami Aiyar	Do. ..	Tamil and Telugu ..	
16	A. V. Parasurama Aiyar	Do. ..	Do. ..	
17	K. Subha Rau	Do. ..	Telugu and Canarese.	
18	S. Panchapakesa Aiyar	Do. ..	Tamil and Telugu ..	
19	G. W. Selvadurai	Do. ..	Do. ..	
20	T. Ramanjulu Chetti	Do. ..	Do. ..	
21	V. Ramakrishnayya	Do. ..	Do. ..	
22	M. S. Krishnaswami Aiyar	Do. ..	Do. ..	
23	T. S. Lakshmana Rau	Do. ..	Tamil	
..	M. T. V. R. Ramanujayya	Do. ..	Tamil and Telugu ..	Independent Candidate.

ROLL of CANDIDATES who obtained CERTIFICATES of QUALIFICATION as SURVEYOR and DRAFTSMAN AND ESTIMATOR at the Annual Examination of the College of Engineering, Madras, held in May 1886.

No.	Name.	Passed as	Place of Examination.	Remarks.
1	Saiyid Raza Husain	Surveyor, First Class, P.W.D.	Madras ..	College Students.
2	J. M. Berlie	Do. do. do.	Do. ..	
3	D. Setu Rau	Do. Second Class, do.	Do. ..	
4	A. Piraisudiya Pillai	Do. do. do.	Do. ..	
5	G. S. Dalgairns	Do. do. do.	Do. ..	
6	B. Venkataramana	Do. do. do.	Do. ..	
7	J. A. Bowie	Do. do. do.	Do. ..	
8	H. Laurence	Do. Third Class, do.	Do. ..	
9	F. Lears	Do. do. do.	Do. ..	
10	A. S. Hudson	Do. do. do.	Do. ..	
11	N. Balasundara Nayakar	Do. do. do.	Do. ..	
1	A. Thambu Chetti	Draftsman and Estimator, First Class, P.W.D.	Do. ..	
2	E. A. Sivakrishnaswami Aiyar ..	Do. do. do. do.	Do. ..	
3	M. Angamuttu Mudaliyar	Do. do. do. do.	Do. ..	
4	A. V. Ramachandra Aiyar ..	Do. do. do. do.	Do. ..	
5	T. M. Swarnam Pillai ..	Do. do. Second Class, do.	Do. ..	
6	T. Ragunatha Rau	Do. do. do. do.	Do. ..	
7	S. W. Damodara Pillai ..	Do. do. do. do.	Do. ..	
8	V. Natesa Aiyar	Do. do. do. do.	Do. ..	
9	M. Srinivasa Nayakar ..	Do. do. do do.	Do. ..	
10	N. K. Muttuswami Aiyar ..	Do. do. Third Class, do.	Do. ..	
11	C. Duraisawami Nayudu ..	Do. do. do. do.	Do. ..	
12	A. Subrahmanya Aiyar ..	Do. do. do. do.	Do. ..	
13	A. Krishna Rau	Do. do. do. do.	Do. ..	
14	M. G. Krishnamachari ..	Do. do. do. do.	Do. ..	
15	C. Sivasankara Mudaliyar ..	Do. do. do. do.	Do. ..	
16	R. Chenchayya Nayudu ..	Do. do. do. do.	Do. ..	
17	A. Krishnaswami Aiyar ..	Do. do. do. do.	Do. ..	
18	P. Subbu Venkatachalam ..	Do. do. do. do.	Do. ..	

H. D. LOVE, Captain, R.E.,
Principal.

Chepauk, 10th June 1886.

MARINE NOTIFICATIONS.

LIST of SHIPPING in the MADRAS ROADSTEAD, with their DESTINATION, &c., on the 17th June 1886 as reported by Commanders or Agents at this Office.

Ship's Name.	Tonnage.	Commander.	Destination.	When to Sail.	Agents.
S.S. "Argo"	793	J. Costanzo ..	Colombo ..	To-day ..	Binny and Co.
American Ship "Empire" ..	1,075	T. L. Snow ..	Unknown ..	Uncertain ..	Best and Co.
Bq. "Ann Millicent" ..	921	H. N. S. Good ..	Liverpool ..	In a few days ..	Arbuthnot and Co.
Bq. "John Davie" ..	1,013	H. Crocker ..	Mauritius ..	30th instant ..	Commander.
Bq. "Huntley Castle" ..	623	J. Saul	Unknown ..	Uncertain ..	Wilson and Co.
Bq. "Khunjee Oodowjee" ..	..	Rowe	Do. ..	Do. ..	Arbuthnot and Co.
Bq. "Prince Arthur" ..	921	C. Hausen ..	London *viâ* Coast.	Do. ..	Gordon, Woodroffe, and Co.
Bq. "Gratitude" ..	544	E. Sanders ..	Unknown ..	Do. ..	Arbuthnot and Co.
Bq. "Lindores" ..	..	Kinsella ..	London *viâ* Coast.	Do. ..	Best and Co.

REPORT of VESSELS arrived at, and departed from, the PORT of MADRAS from the 10th to the 17th June 1886.

Date.	Arrived or Sailed.	Vessel's Name.	Tons.	Nation.	Commander's Name.	Where from.	When left.	Whither bound.
		ARRIVALS.						
1886. June 11th.	Arrived.	S.S. "Chyebassa" ..	1,714	B.	F. A. Wilson ..	Calcutta ..	1886. 7th June.	....
,, ,,	Do.	Dutch Str. "Bantam"	1,484	Dut.	L. Krusman ..	Singapore.	1st ,,	....
,, 12th.	Do.	S.S. "Hesperia" ..	1,982	B.	A. W. Lindquister.	Liverpool..	9th May.	....
,, ,,	Do.	S.S. "Shahzada" ..	1,046	,,	W. Masson	Calcutta ..	8th June.	....
,, 14th.	Do.	P. & O. Str. "Nepaul"	1,988	,,	T. J. Alderton ..	Do. ..	10th ,,	....
,, ,,	Do.	Bq. "John Davie" ..	1,013	,,	H. Crocker ..	Do. ..	28th May.	....
,, ,,	Do.	S.S. "Manora" ..	2,040	,,	R. L. Turner ..	London ..	11th ,,	....
,, ,,	Do.	Bq. "Lindores Abbey"	..	,,	Kinsella ..	Cuddalore.	13th June.	....
,, 16th.	Do.	Aust.-Hung. Steamer "Argo."	793	Aus.	J. Costanzo	Calcutta ..	12th ,,	....
,, ,,	Do.	Bq. "Evelyn" ..	..	B.	T. Stevenson ..	Liverpool..	Not mentioned.	....

REPORT of VESSELS arrived at, and departed from, the PORT of MADRAS from the 10th to the 17th June 1886—(*Continued*).

Date.	Arrived or Sailed.	Vessel's Name.	Tons.	Nation.	Commander's Name.	Where from.	When left.	Whither bound.
				DEPARTURES.				
1886. June 10th.	Sailed.	S.S. "Canara" ..	1,229	B.	J. T. Lewis ..	..	..	Calcutta *viâ* Northern Ports.
,, 12th.	Do.	S.S. "Clan Macintosh."	2,636	,,	S. Beer ..	..	..	London *viâ* Colombo and Suez Canal.
,, 13th.	Do.	S.S. "Chyebassa" ..	1,714	,,	F. A. Wilson ..	..	..	Do.
,, ,,	Do.	Dutch Str. "Bantam."	1,484	Dut.	L. Krusman ..	..	..	Singapore *viâ* Southern Ports.
,, ,,	Do.	S.S. "Shahzada" ..	1,046	B.	W. Masson ..	..	..	Bombay *viâ* Southern Ports.
,, 15th.	Do.	P. & O. Str. "Nepaul."	1,988	,,	T. J. Alderton ..	..	..	London *viâ* Suez Canal.
,, 16th.	Do.	S.S. "Manora" ..	2,040	,,	R. L. Turner ..	..	..	Calcutta.
,, ,,	Do.	S.S. "Hesperia" ..	1,982	,,	A. W. Lindquister.	..	..	Do.
,, 17th.	Do.	Bq. "Evelyn" ..	..	,,	T. Stevenson ..	..	..	Unknown.
,, ,,	Do.	S.S. "Himalaya" ..	910	,,	J. Bellwood ..	..	..	Rangoon *viâ* Northern Ports.

Master Attendant's Office, Executive Department,
Madras, 17th June 1886.

T. E. MARSHALL,
Deputy Master Attendant.

The following are republished for information of Mariners.

Madras, Marine Office,
11th June 1886.

J. H. TAYLOR,
Master Attendant, Administrative Department.

NOTICES TO MARINERS.

[No. 104.]

PORTUGAL—WEST COAST.

RIVER DOURO ENTRANCE.

(1) NOSSA SENHORA DA LUZ LIGHT—REPORTED IRREGULAR ACTION.

The French Government has given Notice—on the authority of the Commander of the French steam vessel *La Rochelle*—that during five days in which the vessel was lying off river Douro entrance, Nossa Senhora da Luz light was observed to show a *flash* of *two seconds* duration *every forty seconds*.

AFRICA—WEST COAST.

(3) CAPE VERDE—SEMAPHORE STATION NEAR WESTERN MOUND LIGHTHOUSE.

Also, dated 19th April 1886, that a Semaphore station, with which vessels might communicate, is established near the lighthouse on the Western mound (the Paps) at cape Verde :—

The Semaphore is in telegraphic communication with Dakar.

(By Command of their Lordships.)

Hydrographic Office, Admiralty, London,
12th May 1886.

W. J. L. WHARTON,
Hydrographer.

This Notice affects the following Admiralty Charts (1 temporarily) :—Cape Finisterre to cape St. Vincent, with plan of river Douro entrance, No. 87 (1); cape Blanco to cape Verde, No. 1231 (2); cape Verde to cape Roxo, No. 599 (2) : Also, Admiralty List of Lights on the Western shores of Europe and Africa, 1886, Nos. 443, 560; Sailing Directions for West Coasts of France, Spain, and Portugal, 1885, page 260; and Africa Pilot, part I, 1885, page 128.

[No. 105.]

BALTIC ENTRANCE—THE SOUND.

(1) SVINBADARNE, AND FALSTERBO REEF LIGHT-VESSELS—PILOT SIGNAL AT NIGHT.

The Swedish Government has given Notice, dated 21st April 1886, that at night, in order to show that a pilot is on board and may be obtained from Svinbadarne, and Falsterbo reef light vessels, a *white* light will be exhibited at the peak, where during the day, under similar circumstances, the pilot flag is hoisted.

GULF OF BOTHNIA—RUSSIAN COAST.

(2) ALTERATIONS IN NORTH QUARKEN LIGHT-VESSEL.

The Russian Government has given Notice, that on the opening of navigation in 1886, a new light-vessel would be placed to mark Snipan shoal, in place of the former North Quarken light-vessel :—

The light, shown from the foremast, will be a *fixed* white light, elevated 28 feet above the sea, and should be visible in clear weather from a distance of about 9 miles.

The illuminating apparatus will be dioptric, or by lenses.

The vessel with two masts, constructed of iron and painted red, has the name *Quarken* (*Snipan*) in white letters on her sides.

In all other respects, the equipment of this vessel is the same as that of the former light-vessel.

(By Command of their Lordships.)

Hydrographic Office, Admiralty, London, W. J. L. WHARTON,
12th May 1886. *Hydrographer.*

This Notice affects the following Admiralty Charts :—Gulf of Bothnia, No. 2252 (2); Stor fiörd to Gamla Karleby, No. 2300 (2): Also, Admiralty List of Lights in the North Sea, &c., 1886, Nos. 337, 360, 498; Danish Pilot, 1885, pages 125, 164; and Bothnia Pilot, 1855, page 70.

[No. 106.]

MEDITERRANEAN.

SPAIN—EAST COAST.

PORT OF VALENCIA—INCREASED DEPTH IN ENTRANCE CHANNEL.

With reference to Notice to Mariners, No. 86, of 11th May 1885, that the depth at the entrance to the port of Valencia, between the Astronomical Pillar and Digue de la Providencia, was not more than 19 feet, but that this depth would shortly be increased by dredging :—

The Spanish Government has given Notice, dated 9th March 1886, that the dredging of the Entrance channel to the port is now completed, and that vessels drawing 24½ feet can pass through it. The work of dredging is still continued, so as to increase the depth throughout the port to the same standard as that in the entrance.

(By Command of their Lordships.)

Hydrographic Office, Admiralty, London, W. J. L. WHARTON,
12th May 1886. *Hydrographer.*

This Notice affects the following Admiralty Charts :—Port of Valencia, No. 562 : Also, Mediterranean Pilot, vol. I, 1885, page 116.

[No. 107.]

AUSTRALIA—CORAL SEA.

REEF REPORTED SOUTHWARD OF HOLMES REEFS.

The Queensland Government has given Notice, that Mr. J. B. Robertson, Master of the schooner *Flora*, has reported the existence of a reef lying 10 miles southward of the southern extreme of Holmes reefs. The *Flora* passed about 2 miles southward of this danger.

Approximate position, lat. 16° 39′ S., long. 147° 48′ E.

(By Command of their Lordships.)

Hydrographic Office, Admiralty, London, W. J. L. WHARTON,
12th May 1886. *Hydrographer.*

This Notice affects the following Admiralty Charts :—Indian ocean, No. 2483; Pacific ocean, south-west sheet, No. 780; Australia, northern portion, No. 2759*a*; Coral Sea, Great Barrier reef, sheets I, II, Nos. 2763, 2764 : Also, Australia Directory, vol. II, 1879, page 450; and Supplement, 1884, to Australia Directory, vol. II, page 74.

[No. 108.]

WEST INDIES.

JAMAICA—SOUTH COAST—PORT ROYAL APPROACH.

PARTICULARS OF PLUM POINT LIGHT.

The following particulars have been received through the Board of Trade, concerning Plum point light, approach to Port Royal from the eastward:—

The light (fixed *white* and *red*, elevated 68 feet above the sea), is visible in clear weather from a distance of 14 miles. The illuminating apparatus, new in August 1885, is dioptric, or by lenses, of the third order.

The lighthouse is 68 feet high.

NOTE.—A faint diffused *white* light is visible northward of the bearing N.W. by W. ¾ W.

(*The bearing is Magnetic, and is given from seaward. Variation* 3° *Easterly in* 1886.)

(By Command of their Lordships.)

Hydrographic Office, Admiralty, London, 13th May 1886.

W. J. L. WHARTON, *Hydrographer.*

This Notice affects the following Admiralty Charts:—Jamaica, No. 446; Morant point to Port Royal, No. 255; Port Royal and Kingston harbours, No. 456: Also, Admiralty List of Lights on the Eastern shores of North America, &c., 1886, No. 1052; and West India Pilot, vol. II, 1876, page 281.

[No. 109.]

BAY OF BENGAL—COAST OF TENASSERIM.

MERGUI ARCHIPELAGO.

SUNKEN ROCK NORTHWARD OF MORRISON BAY.

Information has been received from Commander Carpenter, R.N., in charge of India Marine Survey, of the existence of a dangerous sunken rock lying in the fairway of Mergui archipelago, northward of Morrison bay:—

This rock (*Hext rock*), of small extent, composed of iron stone and slate, with 2 feet on it at low water spring tides, lies with the following bearings and distances:—

Highest Eastern peak, Mergui islands	.. ..	E. by N. ¼ N., distant 7½ miles.
South End of Cantors island	.. .. ..	N. by W. ¾ W., „ 4¾ „

Position, lat. 12° 8′ N., long. 98° 16½′ E.

NOTE.—The conical peak of Lord William Bentinck island open westward of Christmas island, leads westward of Hext rock.

(*The bearings are Magnetic. Variation* 3° *Easterly in* 1886.)

(By Command of their Lordships.)

Hydrographic Office, Admiralty, London, 14th May 1886.

W. J. L. WHARTON, *Hydrographer.*

This Notice affects the following Admiralty Charts:—Bay of Bengal, No. 70; Bassein river to Pulo Penang, No. 830; Lord Loughborough island to Mergui, No. 216*a*.

[No. 110.]

ENGLAND—WEST COAST.

HOLYHEAD BAY.

SOUTH STACK—TEMPORARY ALTERATION IN TELEGRAPH STATION.

The Mersey Docks and Harbour Board has given Notice, dated 3rd May 1886, that the Telegraph station at South Stack, southward of Holyhead bay, is about to be reconstructed; and that, during its reconstruction, passing vessels will have their signals answered from a flagstaff, close to a temporary look-out, which has been erected on the brow of Holyhead mount.

(By Command of their Lordships.)

Hydrographic Office, Admiralty, London, 15th May 1886.

W. J. L. WHARTON, *Hydrographer.*

This Notice temporarily affects the following Admiralty Plan:—Holyhead bay, 1413: Also, Sailing Directions for the West coast of England, 1884, page 83.

[No. 111.]

ENGLAND—WEST COAST.

BRISTOL CHANNEL—KING ROAD APPROACH.

DECREASED DEPTHS ON MIDDLE GROUND.

The following information has been received from Staff Commander Archdeacon, R.N., in charge of Admiralty Survey, relative to decreased depths on Middle ground, lying between English grounds and Welsh Hook, approach to King road :—

From a preliminary examination, the shoalest part of the ground, situated near its eastern end, was found to dry $1\frac{1}{2}$ feet at low water spring tides. This eastern end lies with the following bearings and distances :—

Denny island	N. 79° E., distant	7	miles.
Walton castle	S. 55° E., ,,	$3\frac{9}{10}$	,,
Grounds light-vessel	S. 52° W., ,,	$1\frac{6}{10}$	,,
West extreme of Middle ground that dries..	S. 86° W., ,,	8	cables.

The west extreme of the ground that dries is narrow, gradually increasing in width to its eastern end, where it is about $2\frac{1}{2}$ cables broad in a north and south direction. Shoal water extends a considerable distance eastward of the above mentioned eastern end, there being a depth of 3 fathoms at the distance of one mile in that direction. The tendency of the shoal is apparently to extend to the eastward.

NOTE.—This examination shows that the sand has accumulated in the shoalest part to an extent of $10\frac{1}{2}$ feet since 1883.

(*The bearings are Magnetic. Variation* 19° *Westerly in* 1886.)

(By Command of their Lordships.)

Hydrographic Office, Admiralty, London,
15th May 1886.

W. J. L. WHARTON,
Hydrographer.

This Notice affects the following Admiralty Charts :—English channel, Nos. 1598, 2675*b*; Ireland, general, No. 1824*a*; Bristol channel, No. 1179: Nash point to New Passage, No. 2682: Also Sailing Directions for the Bristol channel, 1884, page 146.

[No. 112.]

SHETLAND ISLES.

INTENDED DISCONTINUANCE OF EXPERIMENTAL FOG SIGNAL ON FAIR ISLE.

With reference to Notice to Mariners, No. 193, of 30th October 1885, and to previous Notices, on the establishment, on trial, for a period of about six months, of a rocket fog signal on Fair isle, and to continuance of the signal beyond that period :—

The Commissioners of Northern Lighthouses have given further Notice, dated 10th May 1886, that this rocket fog signal, established on trial 8th May 1885, will be discontinued after 30th June 1886.

(By Command of their Lordships.)

Hydrographic Office, Admiralty, London,
15th May 1886.

W. J. L. WHARTON,
Hydrographer.

This Notice affects the following Admiralty Charts :—North sea, No. 2339; Scotland, north coast, No. 2397*b*; Fair isle, No. 2622: Also, North Sea Pilot, part I, 1876, pages 4, 94, 96.

[No. 113.]

AUSTRALIA—EAST COAST.

ENDEAVOUR RIVER ENTRANCE.

(1) CUTTING THROUGH BAR, AND ALTERATION IN POSITION OF LEADING LIGHTS.

The Queensland Government has given Notice, dated 2nd March 1886, that a cutting, in which there is a depth of 13 feet at low water, has been made through the bar, Endeavour river entrance :—

The line of the cutting is indicated by two triangular beacons placed on the bank abreast the township (Cooktown), which, kept in line bearing S.W., S^ly., lead through the centre of the channel.

Also, that on 10th March 1886, the *red* leading lights for entering the river at night, would be exhibited from these beacons instead of from their previous positions on shore.

(2) GRASSY HILL—ALTERATION IN TIDAL SIGNALS.

Also, that on 20th March 1886, the following Code of Tidal signals would be substituted for that previously in use on Grassy hill, to indicate the depth of water on the bar, Endeavour river entrance :—

Depth of Water on Bar.		Day Signals.	Night Signals.
FT.	IN.		
12	0	Cone at north yard-arm.	*White* light.
12	6	Cone at north yard-arm, dipped.	*Red* light.
13	0	Cone at south yard-arm.	*Green* light.
13	6	Cone at south yard-arm, dipped.	*Red* light over *white*.
14	0	Ball at north yard-arm.	*Red* light under *white*.
14	6	Ball at north yard-arm, dipped.	*Green* light over *white*.
15	0	Ball at south yard-arm.	*Green* light under *white*.
15	6	Ball at south yard-arm, dipped.	*Red* light over *green*.
16	0	Two balls at north yard-arm.	*Red* light under *green*.
16	6	Two balls at north yard-arm, dipped.	Two *white* lights, vertical.
17	0	Two balls at south yard-arm.	Two *white* lights, horizontal.
17	6	Two balls at south yard-arm, dipped.	Two *red* lights, vertical.
18	0	Ball at each yard-arm.	Two *green* lights, vertical.
18	6	Ball at each yard-arm, dipped.	Two *red* lights, horizontal.
19	0	Flag over ball, north yard-arm.	Two *green* lights, horizontal.
19	6	Flag over ball, north yard-arm, dipped.	*White* light north, *red* south.
20	0	Flag over ball, south yard-arm.	*Red* light north, *white* south.
20	6	Flag over ball, south yard-arm, dipped.	*White* light north, *green* south.
21	0	Ball over flag, north yard-arm.	*Green* light north, *white* south.

During flood tide.—By day a red burgee is hoisted on a detached pole near the flagstaff; and at night a *red* light is shown northward of the permanent white light.

(*The bearing is Magnetic. Variation* 6° *Easterly in* 1886.)

(By Command of their Lordships.)

Hydrographic Office, Admiralty, London,
15th May 1886.

W. J. L. WHARTON,
Hydrographer.

This Notice affects the following Admiralty Plan :—Endeavour river, with plans of entrance, No. 1072: Also, Admiralty List of Lights in South Africa, &c., 1886, No. 496; Australia Directory, vol. II, 1879, pages 245, 246; and Supplement, 1884, to Australia Directory, vol. II, page 51.

[No. 114.]

NOVA SCOTIA—SOUTH-EAST COAST.

(1) LA HAVE RIVER—ALTERATION IN BUOY AT ENTRANCE.

The Government of the Dominion of Canada has given Notice, dated 3rd March 1886, that the small bell buoy off La Have river entrance, has been replaced by a bell buoy of larger size (Trinity House pattern) :—

The buoy is moored in 22 fathoms at low water, with the following bearings and distances :—

West Ironbound island lighthouse .. .. .. N.N.E., distant $2\frac{1}{8}$ miles.
Moshers island lighthouse .. .. N. by W., „ $3\frac{1}{4}$ „

Position, lat. 44° 11′ 35″ N., long. 64° 16′ 30″ W.

WEST INDIES.

HAITI OR SANTO DOMINGO.

(2) SANTO DOMINGO HARBOUR—CHARACTER OF FORT SAN JOSE LIGHT.

Information has been received from the Naval Commander-in-Chief on the North America and West India Station, dated 8th March 1886, that the revolving apparatus of the light on fort San José, west side of Santo Domingo harbour entrance, established in the year 1879, is defective; and that the light now shown is a *fixed* white light of small power.

(*The bearings are Magnetic. Variation* $20\frac{1}{2}$° *Westerly in* 1886.)

(By Command of their Lordships.)

Hydrographic Office, Admiralty, London,
15th May 1886.

W. J. L. WHARTON,
Hydrographer.

This Notice affects the following Admiralty Charts (2 temporarily) :—Halifax to the Delaware, No. 2670 (1); St. John's to Halifax, No. 2666 (1); cape Sable to Sambro island, No. 730 (1); port Metway to Lunenburg, No. 342 (1); West India islands and Caribbean sea, Nos. 761, 762 (2); Santo Domingo harbour, No. 2240 (2): Also, Admiralty List of Lights on the Eastern shores of North America, &c., 1886, No. 1056; Sailing Directions for S.E. coast of Nova Scotia and Bay of Fundy, 1885, page 130; and West India Pilot, vol. II, 1876, page 268.

[No. 115.]

MALACCA STRAIT—EASTERN SHORE.

(1) Intended Flashing Light on Pulo Pisang.

Information has been received, that about the beginning of the month of July 1886, a light will be exhibited from a lighthouse recently erected on the summit of Pulo Pisang, eastern shore of Malacca strait:—

The light will be a *flashing* white light *every five seconds*, elevated 325 feet above the sea, and should be visible in clear weather from a distance of 30 miles.

The illuminating apparatus will be of the first order.

The lighthouse, 40 feet high, is circular in shape, and of the colour of red brick, the lantern and gallery are white; the keeper's dwelling and other buildings are gray.

Position, lat. 1° 27⅓′ N., long. 103° 15′ E.

RUSSIAN TARTARY.

PETER THE GREAT BAY—PORT VLADIVOSTOK APPROACH—EASTERN BOSPHORUS STRAIT.

(2) Cape Galdobin Lights—Arc of Visibility.

The Russian Government has published the following information, dated 26th March 1886, concerning cape Galdobin lights, Eastern Bosphorus strait:—

The lights are visible between the bearings of N. 39½° W., through east, and S. 39½° E. They are placed 84 feet apart in an E.N.E. and W.S.W. direction. The intensity of these lights has also been increased by reflectors.

(*The bearings are Magnetic, and are given from seaward. Variation* 6½° *Westerly in* 1886.)

(By Command of their Lordships.)

Hydrographic Office, Admiralty, London,
15th May 1886.

W. J. L. WHARTON,
Hydrographer.

This Notice affects the following Admiralty Charts:—China sea, southern portion, No. 2660*a* (1); Eastern Archipelago, western portion, No. 941*a* (1); Malacca strait, eastern part, No. 1355 (1); mount Formosa to Tanjong Bolus, No. 796 (1); Eastern Bosphorus strait, No. 2407 (2): Also, Admiralty List of Lights in South Africa, &c., 1886, Nos. 157, 361; China Sea Directory, vol. I, 1878, page 81; and China Sea Directory, vol. IV, 1884, page 150.

[No. 116.]

MEDITERRANEAN.

ADRIATIC—EAST COAST.

(1) Sansego Island Light—Arcs of Visibility over Lussin Island.

The Austrian Government has given Notice, dated 23rd April 1886, that Sansego island light is visible from Quarnero channel, over Lussin island, through the four following arcs, when at the distance of 15 to 20 miles from the light:—

Between the bearings of S. 70° W. and S. 72° W.; from S. 77° W. to S. 80° W.; from S. 81¾° W. to S. 82¼° W.; and from S. 85¼° W. to S. 89¼° W.

GULF OF CATTARO.

(2) Harbour Lights at Eustachio.

Also, that on 1st May 1886, two harbour lights would be exhibited from an iron support placed on the shore at Eustachio (S. Eustacchio di Dobrota), eastern side of gulf of Cattaro:—

The lights are fixed *red* lights, placed vertically. The illuminating apparatus is dioptric, or by lenses.

Position, lat. 42° 28′ N., long. 18° 46′ E.

(*The bearings are Magnetic, and are given from seaward. Variation* 10° *Westerly in* 1886.)

(By Command of their Lordships.)

Hydrographic Office, Admiralty, London,
15th May 1886.

W. J. L. WHARTON,
Hydrographer.

This Notice affects the following Admiralty Charts:—Cape Promontore to Grossa island, No. 2711 (1); Adriatic sea, No. 1440 (2); Curzola to Cattaro, No. 2713 (2); port Malonta to Malaluka bay, No. 1463 (2): Also, Admiralty List of Lights in the Mediterranean, 1886, No. 480, page 48; and Mediterranean Pilot, vol. III, 1880, pages 134, 238.

[No. 117.]

SULU OR MINDORO SEA.

PALÁWAN ISLAND—SOUTH-EAST COAST.

SHOAL REPORTED S.S.E. OF WRIGHT SHOAL.

The following information has been received—the report of Mr. Ginn, Master of the American barque *Coryphene*—of the existence of a shoal lying in the fairway of approach to Balábac strait from the north-eastward, with Wright shoal bearing N.N.W., distant about 7½ miles :—

This shoal (*Ginn shoal*) was first seen from aloft in the *Coryphene*, bearing S. by E., distant about 4 miles (Ursula island being just visible from the deck); soon afterwards Wright shoal was seen from aloft bearing N.N.W., distant about 3½ miles. Wright shoal appeared a light green colour without breakers; Ginn shoal was white in colour, with the sea breaking near its centre (wind and sea moderate), and was therefore considered to have less water on it than that on Wright shoal; the two shoals appeared to be of about the same extent.

Approximate position, lat. 8° 13′ N., long. 117° 42′ E.

(*The bearings are Magnetic. Variation* 1¾° *Easterly in* 1886.)

(By Command of their Lordships.)

Hydrographic Office, Admiralty, London,
15th May 1886.

W. J. L. WHARTON,
Hydrographer.

This Notice affects the following Admiralty Charts:—China sea, southern portion, No. 2660*b*; Paláwan island, No. 967: Also, China Sea Directory, vol. II, 1879, page 226.

[No. 118.]

CHINA SEA—PHILIPPINE ISLANDS.

PORT ZEBÚ APPROACH—HARBOUR LIGHT ON THIRD VANTAY POINT.

The Spanish Government has given Notice, dated 1st April 1886, that a harbour light is now exhibited from a lighthouse erected on Third Vantay point, northern extreme of Mactan island, approach to port Zebú from the northward :—

The light is a fixed *red* light, elevated 39 feet above the sea, and should be visible in clear weather from a distance of 7 miles.

The lighthouse, 25 feet high, consists of an iron tower, painted gray; the keeper's dwelling is near it.

Approximate position on Admiralty charts, lat. 10° 20′ N., long. 123° 58½′ E.

(By Command of their Lordships.)

Hydrographic Office, Admiralty, London,
15th May 1886.

W. J. L. WHARTON,
Hydrographer.

This Notice affects the following Admiralty Charts:—Philippine islands, No. 943; Sulu or Mindoro sea, eastern part, No. 2578; ports in Philippine islands, No. 2391: Also, Admiralty List of Lights in South Africa, &c., 1886, page 40.

REVENUE NOTIFICATION.

CASES OF CONFISCATION.

Under the power delegated to him by paragraph IX of Government Notification No. 76, dated 17th March 1886, published in the *Fort St. George Gazette* of the same date, the Commissioner of Salt and Abkári Revenue hereby authorizes all Officers of the Department of Salt and Abkári Revenue of the grades specified below to inquire into and determine cases of confiscation falling under clause 3, section 66 of the Madras Abkári Act, 1886, and to order confiscation subject to the limitation imposed in each case and to appeal to their respective immediate superiors within two months.

Officers in charge of Circles—in cases in which the value of the articles liable to confiscation does not exceed Rupees 50.

Assistant Commissioners—in cases in which such value does not exceed Rupees 200.

Deputy Commissioners—without limit as to value.

Salt and Abkári Commissioner's Office,
Madras, 16th June 1886.

C. A. GALTON,
Ag. Commissioner of Salt and Abkári Revenue.

PUBLIC WORKS NOTIFICATION.

UNCLAIMED SUM.

Notice is hereby given that the sum of Rs. 35-6-3 due to K. A. Sahasranama Iyer, late Clerk in the Vayitri Subdivision, on account of his salary for February and March 1886, is held in deposit in this office, and that, if the amount is not claimed within three months from this date, it will be credited to Government.

H. S. TAYLOR,
Executive Engineer, West Coast Division.

Calicut, 8th June 1886.

MILITARY NOTIFICATION.

REPORT OF A DESERTER.

REPORT of a DESERTER from the 12th Regiment of Royal Lancers, dated at Bangalore, this 8th day of June 1886.

Number, rank, and name	2237, Private William Otten.
Age	27 years.
Size — Feet	5.
Size — Inches	8½.
Color of — Complexion	Fresh.
Color of — Hair	Brown.
Color of — Eyes	Gray.
Date of desertion	31st May 1886.
Place of do.	Bangalore.
Date of enlistment	29th March 1879.
At what place enlisted	London.
Parish and county in which born	Whitechapel, London, Middlesex.
Marks	Loss of upper front tooth.
Trade	Japaner.
Coat or jacket	Regimentals.
Waistcoat	Regimentals.
Breeches or trousers	Regimentals.
Remarks	Under eight years' service.

W. COLQUHOUN, Captain,
for *Officer Commanding 12th Royal Lancers.*

POST OFFICE NOTIFICATION.

FOREIGN MAILS.

Homeward Overland Mail closes at the General Post Office every Sunday at 4 P.M. Registered articles must be tendered at the window from 2 to 3 P.M. An "after-packet" will be made up at 4-45 P.M., and "late" letters will be received at the window up to 5-5 P.M.

The latest safe date for posting letters for Straits and China and the Australian Colonies *viâ* Bombay will be the 23rd June 1886 at 4 P.M.; and for the Australian Colonies *viâ* Tuticorin and Colombo the 22nd June 1886 at 6 A.M.; for the Straits and China by French steamer from Madras on 19th June 1886; for Mauritius and Réunion *viâ* Bombay on 27th June 1886 at 4 P.M.; for Cape Colonies, Zanzibar, Mozambique, and Delagoa Bay *viâ* Bombay every Sunday at 4 P.M.

Mails for Ceylon are despatched as under :—

Articles posted on Sundays, Mondays, and Tuesdays are forwarded to Tuticorin and thence to Colombo by B.I.S.N. Company's contract steamer every Thursday.

Articles posted on Wednesdays, Thursdays, Fridays, and Saturdays are forwarded to Point Calimere, thence by catamaran to Kankesanturai, and thence by road and railway onwards.

By P. and O. steamers	23rd June *viâ* Bombay and 28th June *viâ* Madras.
By French steamers	19th June *viâ* Madras.

General Post Office, Madras,
17th June 1886.

S. SULLEN,
Presidency Postmaster.

TELEGRAPH NOTIFICATION.

LIST of UNDELIVERED MESSAGES for the months of April, May, and June 1886.

Station from.	No.	Date.	Address in full as received.	Not found; address insufficient.	Not found at address given.	Address changed in transmission.	Left station; new address not known.	Left India.	Left for original station.	Refused.	Other reasons.	Remarks.
			MADRAS CENTRAL OFFICE.									
		1886.										
Calcutta ..	230	1st Apl.	H. Gutmann, Lippert's Hotel.	..	..	..	..	..	1	..	..	
Cocanada ..	380	" "	Gill	..	..	..	..	..	..	..	1	Returned by Post Office.
Collectorgang, Cawnpore.	1126	3rd "	Salim Buslor Chetty, Armenian Street.	..	..	..	..	..	..	..	1	Do.
Stelens ..	776	" "	Rakes Benneys ..	..	..	..	..	..	..	..	1	Returned by Binny and Co.
Rangoon ..	914	" "	C. Parthasarathy Naiker, No. 30, Kalastree Street.	..	..	..	..	..	..	..	1	Returned by Post Office.
Mercara ..	2717	8th "	Mayman Hazi Kassim Sate Mohomed Sait.	..	..	..	..	..	..	..	1	Do.
Cantonment, Rangoon.	3711	12th "	Lieut. Gay, R.A., Fort St. George.	..	..	..	..	1	..	..	..	
Poona ..	1329	4th "	Khadur Bhoy Jafferjee, Sowcarpet.	..	..	..	..	..	..	..	1	Do.
Rangoon ..	6138	20th "	Major Heaton, South Wales Borderers.	..	..	..	..	..	1	..	..	
Calcutta ..	6794	22nd "	Khoda Bux, S.S. *Rewa.*	..	..	..	..	..	1	..	..	
Rangoon ..	7106	23rd "	H. Elcock, Esq., H. M.I.M.S. *Canning.*	..	..	..	..	..	1	..	..	
Colombo ..	7202	23rd "	Gilruth	1	..	..	..	..	..	..	..	
Coonoor ..	6322	20th "	H. Wroughton, Esq., care of Station Master, Central Station.	..	..	..	..	..	..	..	1	Returned by the Station Master.
Saharunpore ..	4872	16th "	R. P. Atkinson, Esq., Executive Engineer.	..	..	..	..	..	..	..	1	Returned by Post Office.
Vizagapatam ..	8249	28th "	Gangulu China Veerannah Garu.	1	..	..	..	..	..	..	..	
Bangalore ..	8618	29th "	Gilruth	1	..	..	..	..	..	..	..	
Guntur ..	9019	30th "	Thali Davapalli Narayaniah.	..	..	..	..	..	..	..	1	Do.
Masulipatam ..	377	1st May.	Tonamlury Garaitayya.	..	..	..	..	..	..	..	1	Do.
Rangoon ..	8965	29th Apl.	Koovena Esoof, Broker, Kollenpatterai Street.	..	..	..	..	..	..	..	1	Do.
Cocanada ..	470	2nd May.	M. G. Ramanujayah Gar.	..	..	..	..	..	..	..	1	Do.
London ..	3089	11th "	Dymes	..	..	..	..	..	..	..	1	Returned by Dymes and Co.
Nowgong, Assam.	2891	10th "	Mariasundrum, Butler, Vepery.	..	..	..	..	..	..	..	1	Returned by Post Office.
Palakole, through Rajahmundry.	3375	11th "	Moorrila Subbaroyudu.	..	..	..	..	..	..	..	1	Do.
Colombo ..	6318	20th "	Dawson, Native Infantry.	1	..	..	..	..	..	..	..	
Rangoon ..	3407	10th "	Colonel Whitlock, 5th M. I., care of P. and O. Agent.	..	..	..	..	..	1	..	..	
Quilon ..	5085	17th "	Aboobakur Issack Sait, care of Appasamy Chetty, residing Venakat Street, near the Cundasawmy Covil, Mootialpet.	..	..	..	..	..	..	..	1	Do.
Bimlipatam ..	6665	22nd "	H. G. Burton, Lippert's Hotel.	..	..	..	..	..	..	..	1	Do.
London ..	7567	25th "	Rama Row ..	1	..	..	..	..	..	..	..	
Rangoon ..	8103	27th "	Mr. C. Carrol, 47, Main Road.	..	..	..	..	..	..	..	1	Do.
Rangoon ..	1297	4th June	Pachary Neelamaigum Pillay.	1	..	..	..	..	..	..	..	
Galle ..	1178	" "	Sena Merasaibo ..	1	..	..	..	..	..	..	..	
Vizagapatam ..	1533	5th "	Vadreve Ramamurti.	..	..	..	..	..	..	..	1	Do.

LIST of UNDELIVERED MESSAGES, &c.—(*Continued*).

Station from.	No.	Date.	Address in full as received.	Not found; address insufficient.	Not found at address given.	Address changed in transmission.	Left station; new address not known.	Left India.	Left for original station.	Refused.	Other reasons.	Remarks.
MADRAS CENTRAL OFFICE—(*Continued*).												
Etawa ..	1472	1886. 5th June	Mean Abdulkader Sahib, No. 31 Godown, Meerauddin.	..	..	..	..	..	..	..	1	Returned by Post Office.
Nizampatam, through Guntur.	2262	8th ,,	Subbaraya Setty ..	..	..	..	..	..	..	..	1	Do.
Ootacamund ..	2293	,, ,,	Thoomala V. Rungiah Naidu.	..	..	..	..	..	..	..	1	Do.
Nagpore, G.I.P.	2951	10th ,,	Poonasawmy, Royapuram.	1	..	..	..	..	..	..	..	
MADRAS VEPERY OFFICE.												
Bangalore ..	..	15th Apl.	Mrs. Jane Wood, Nurse, Vepery Hospital.	..	..	..	..	..	1	..	..	
Do. ..	..	18th ,,	Basava Gonda, residing in Valojee Muttah, Madras.	..	1	..	..	..	..	..	..	
MADRAS NUNGAMBAKUM OFFICE.												
Madura ..	..	5th May.	J. O'Shaughnessy ..	..	..	..	..	..	1	..	..	
Hyderabad Dn.	..	24th ,,	Toorab Un Ni Ta Bagum, care of Nawab Thaver Jung Bahadur.	..	..	..	..	..	1	..	..	
MADRAS TRIPLICANE OFFICE.												
Giridih ..	..	1886. 6th May.	The Executive Engineer, Aqueduct, D.V., Nadrai, Madras.	..	1	..	..	..	..	..	..	
MADRAS SAIDAPET OFFICE.												
Mysore ..	..	27th May.	S. Krishna Rao, Esq., residing in late Dewan Rungacharlu's house.	..	1	..	..	..	..	..	..	

E. DOWSON,
Superintendent Government Telegraphs,
Madras Signal Office.

Government Telegraph Office, Madras,
14th June 1886.

OFFICIAL ADVERTISEMENTS.

DEMOLITION OF PUBLIC BUILDINGS.

FRESH tenders are invited for the demolition of the undermentioned two unoccupied public buildings at Tripassur since it has been decided by Government that Mr. Cox is to be allowed to continue to reside in his present quarters:—

1. Quarters known as Leary's house.
2. Do. as Writer's house.

Tenders should state the sum for which buildings will be demolished, materials removed, and site levelled.

Time within which work will be completed should also be stated.

Tenders will be received up to 30th June 1886.

Further particulars may be obtained on application to this office.

Terms—Ready Cash.

L. LANGLEY, Captain, R.E.,
Executive Engineer, Chingleput Division.

Chingleput Divisional Office, St. Thomas' Mount,
10th June 1886.

TENDERS FOR THE PURCHASE OF PUBLIC WORKS STORES.

TENDERS are invited for the purchase of certain surplus Public Works stores, tools, plant and machinery now enumerated and described in a list which may be seen at the office of the General Superintendent, Public Works Stores, North Black Town, between the hours of 11 A.M. and 4 P.M.

A printed copy of the list will be shortly available for issue to parties applying for the same. The stores, &c., for sale will be shown to any person desirous of seeing the same on the 28th, 29th, and 30th June; after the last mentioned date, no tender will be received.

Each tender to be written in English and accompanied by Rupees 100 as earnest money, which will be returned in the event of non-acceptance of the tender, or forfeited to Government in the event of the tenderer not fulfilling his tender and completing a contract bond.

Tenders may be for the whole of the items or for any one item or for any part of any one item enumerated in the printed list, and should clearly specify in words and figures the rate offered for each article in each item, and whether the whole of the articles in each item named is tendered for. As regards the raw materials, the rate per lb. and total quantity tendered for should be clearly stated.

The General Superintendent does not bind himself to accept the highest or any tender.

The tender to be enclosed in a cover addressed to the General Superintendent, Public Works Stores, and superscribed "Tender for Purchase of Surplus Public Works Stores."

For further particulars apply to the undersigned at his office, Seven Wells, North Black Town.

N.B.—The articles to be sold consist of mathematical instruments, axes, chisels, blasting tools, brass water-cocks, copying presses, files, saws, hammers, mamooties, pickaxes, carpenter's tools, planes, sheet iron, carpenter's iron mongery, locks, bar iron, angle iron, steel shear flat, cast flat and blister flat, also octagon, round and square, four wind mills, one large force pump, three steam engines, 4, 6, and 10 horse power respectively.

Public Works Store Department,
Madras, 10th June 1886.

HUGH O'CONNELL,
General Superintendent, Public Works Stores.

REPAIRS TO TANKS, &c.

1. *Kundedutha Manikum Tank No. 5.*

	RS.
Repairs to Surplus Weir No. 1	2,690
Do. to Sluice No. 1	500
Do. to Irrigation Sluice No. 2	805
Do. to do. ,, 3	830
Do. to do. ,, 4	510
Do. to do. ,, 5	465
Do. to Bund	5,186
Total	10,986

2. *Dali Anicut Channel.*

Repairs to Anicut	760
Do. to Regulating Dam	408
Extending Scouring Sluice	1,628
Repairs to Head Sluice	1,860
Do. to Surplus Weir	280
Do. to the Channel	2,380
Total	7,316

3. *Dali Branch Channel No. 3.*

Repairs to Channel	3,620
Constructing Regulator at Head	530
Do. Irrigation Sluice	125
Do. Regulator at Head of No. 9 Tank	360
Do. do. and Surplus Weir at Head of Alankulam Branch Channel	1,080
Do. do. and Surplus Weir at Head of Settikulam Tank	355
Total	6,070

4. *Senkulum Tank No. 7.*

Extending Surplus Weir No. 2	662
Repairs to Sluices	45
Do. to Bund	1,695
Total	2,402

5. *Karasankulum Tank No. 11.*

Constructing Regulator	486
Repairs to Calingulah and Apron	150
Do. to Bund	1,184
Total	1,820

6. *Thinaikulum Tank No.* 9.

	RS.
Constructing Sluice No. 2	928
Repairing Surplus Weir	105
Do. Bund	320
Total	1,353

7. *Thullanattukulum Tank No.* 10.

Constructing Regulator at Head of Supply Channel	735
Repairing Bye-wash	112
Do. Supply Channel and Bund	218
Total	1,065

8. *Settikulum Tank No.* 8.

Repairing Surplus Weir No. 1	102
Do. do. ,, 2	92
Do. Bund	509
Total	703

9. *Pudukulum Pond.*

Repairing Bund and Escape	260

Notice is hereby given that sealed tenders will be received at the Office of the Executive Engineer, Coimbatore, up to 28th June 1886 for any or all of the above works. These works are situated in close vicinity to each other in the Udamalpet Taluk, Coimbatore District. All the works should be completed by the 28th February 1887.

2. The following contract documents can be seen in the Executive Engineer's Office at Coimbatore on any date up to 28th June 1886 :—

(1) A complete set of drawings showing the general dimensions of the proposed work and so far as necessary details of the various parts.
(2) A complete specification of the work to be done and of the materials to be used.
(3) Schedule of quantities of the various description of work.
(4) A set of conditions of contract to be complied with by the person whose tender may be accepted.

3. The tenders should be accompanied by a statement in the form of the undermentioned Abstract Estimate showing the rates at which different works specified below will be executed :—

Description of Work.	Unit of Work to be tendered.
1. Old rough stone in chunam	100 C. feet.
2. New do. do.	100 do.
3. Pointing	100 S. feet.
4. Cutstone in chunam	Cubic foot.
5. New rough stone dry packing	100 C. feet.
6. Rubble stone in chunam	100 do.
7. Slab stone work	Cubic foot.
8. Concrete	100 C. feet.
9. Wood work (teak wrought and put up)	Cubic foot.
10. Earthwork (cutting)	1,000 C. feet.
11. Do. (embanking)	1,000 do.
12. Brick in chunam	100 C. feet.
13. Plastering	100 S. feet.
14. Archwork	100 C. feet.
15. Sluice plug with lifting gear, &c., complete	Each.
16. Sluice shutter with lifting rod, &c., do.	Do.
17. Repacking revetment with one-third new stone	100 C. feet.

4. Each tender must be accompanied by a deposit in cash or Government promissory notes as under and be superscribed with the name of the work tendered for, in default of which tenders will be rejected, viz. :

	RS.
Work No. 1	500
Do. ,, 2	350
Do. ,, 3	300
Do. ,, 4	100
Do. ,, 5	100
Do. ,, 6	75
Do. ,, 7	75
Do. ,, 8	50
Do. ,, 9	50

5. All tenders will be opened at the Divisional Office at 12 noon on the date above mentioned in the presence of those who may choose to attend.

6. The Executive Engineer reserves to himself the right of rejecting any or all of the tenders without assigning any reason for so doing.

7. To allow of a guarantee fund being formed on the part of Government, a deduction of 10 per cent. from all payments to the contractor will be made by the Executive Engineer at the time of payment.

8. The deposit of the successful competitor will be retained until he executes the contract and such time as the above deduction of 10 per cent. amounts to the sum deposited.

9. The successful competitor will be required to sign a contract bond on a stamped paper at his own expense on the basis of his tender containing penalties for breach of contract on his part.

O. V. BODDY, Captain, R.E.,
Executive Engineer.

Coimbatore, 21st May 1886.

POST OFFICE SUPPLIES.

SEALED tenders will be received by the Presidency Postmaster up to 12 (noon) on the 30th instant for the supply by contract of the undermentioned articles for one year, commencing from 1st August 1886 :—

Twine.	Pymore mill common thread No. 1.
Europe vinegar.	Lamp oil.
Cocoanut-oil, first sort.	Coarse dungaree cloth.
Lamp-thread.	Horse-gram.

The contractor must state the rate at which he will engage to supply each of the above-named articles according to the quantity required for the consumption of each month.

The contractor will be required to give tangible security to the amount of Rupees 500 for the due fulfilment of the contract.

Tenders are to be accompanied by a cash deposit of Rupees 100, to be forfeited in the event of the party failing to lodge the required security or to execute the necessary bond.

Musters or samples of articles, except horse-gram, may be seen on application at the Madras Post Office.

The contractors must send samples of horse-gram. The probable quantity required will be daily 80 measures, or monthly 2,400 measures.

Tenders must be forwarded under sealed covers addressed to the Presidency Postmaster and superscribed "Tenders for the Madras Post Office Supplies," and be accompanied with samples of each article under sealed covers.

Tenders will be opened at 12 o'clock (noon) on the 30th instant in the presence of the parties concerned or their agents. The acceptance of the approved tender, it is to be understood, will rest with the Government of India, to whom it will be submitted for that purpose.

Information regarding quantity and quality can be obtained at the Madras Post Office.

The Government seer of 80 tolahs and maund of 40 seers to be employed as the measure of weight.

No advance of cash will be given.

S. SULLEN,
Presidency Postmaster.

Madras, 1st June 1886.

FOR SALE.

TWO young elephants—male, height 4 feet 6 inches, and female, height 4 feet 5 inches. Apply to RHODES MORGAN, District Forest Officer, Malabar.

പരസ്യം.

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Malabar Collector's Office,
Calicut, 7th June 1886.

RHODES MORGAN,
District Forest Officer, Malabar.

FOR SALE AT THE GOVERNMENT PRESS, FORT ST. GEORGE.

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To be had at the Office of Superintendent, Government Printing, India, No. 8, Hastings Street, Calcutta.

FOOD-GRAINS AND SALT THROUGHOUT INDIA, 1861—83, Prices of. Super royal, boards. *Rs.* 1-8 (4*a*.).

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SCIENTIFIC MEMOIRS BY MEDICAL OFFICERS OF THE ARMY OF INDIA, edited by B. Simpson, M.D. Part I, demy 4to. *Rs.* 2 (2*a*.).

INSTRUCTIONS FOR PAYMENT OF NATIVE TROOPS OF THE BENGAL ARMY, 1886. Super royal 8vo., full cloth. *Rs.* 1-4-0 (2*a*.).

THE BUCKINGHAM CANAL. Papers relating to the —. No. CCXVII (P.W.D. Serial No. 6). *Re.* 1 (3*a*.).

RAIL-BORNE TRADE RETURN for first quarter of 1885-86. Fcap., paper cover. 4*a*. (1*a*.).

ASIATIC SOCIETY'S BOOKS.

LIST of Books for sale at the Library of the Asiatic Society of Bengal, No. 57, Park Street, Calcutta, and obtainable from the Society's London Agents, Messrs. Trübner and Co., 57 and 59, Ludgate Hill, London, E.C.

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CIVIL MEDICAL SUBORDINATE DEPARTMENT.

NOTICE is hereby given that ten candidates will be entertained for the Junior Department of the Medical College in connection with the Civil Department of the Medical Subordinate Establishment.

2. Candidates must not be below fifteen nor above nineteen years of age, and they must produce testimonials as to character and certificate of age, vaccination, personal marks, and physical fitness for Government service signed by a Commissioned Medical Officer of the British or of the Indian Establishment.

Candidates of all nationalities are eligible for this department, provided they have passed the Middle School Examination in English.

3. Should the number of applications exceed ten, the whole will be subjected to a competitive examination in the English language and translation.

4. Assuming that the number of candidates will exceed ten, applications in the annexed tabular form for admission to this examination (which will be held in any Civil or Military Station of the Madras Presidency, or of Burmah, where they may be a Medical Officer to superintend the candidates), with certificates prescribed in paragraph 2, must be sent to the undersigned on or before the 10th July next.

5. Each application must be superscribed "Application for admission to the Examination for 'Civil Medical Pupils'" and be accompanied with a receipt showing that the examination fee of *Rupees five* has been paid into a Government treasury. This fee will not be refunded, nor will it be reserved for another examination.

6. The examination, which will be conducted by means of printed papers, will be held on Saturday the 14th August next.

7. Successful candidates will be designated "Civil Medical Pupils" and attached for one year to such Civil Hospitals as the Surgeon-General may appoint them on Rupees 7 per mensem for the whole period.

8. During their precollegiate course Civil Medical Pupils will be subject to the periodical examinations prescribed in G.O.C.C., No. 112, of 29th August 1868, viz. :—

First examination at the close of six months—

Subject.—The sensible properties, names, uses, and doses of the more common medicines in the dispensary and elements of Osteology.

Second examination at the close of twelve months—

Subject.—The whole subject of Practical Pharmacy, the reading of prescriptions, and the essentials of Minor Surgery.

At this final examination Civil Medical Pupils will further be required to give proof of their competence to make out correctly the usual Hospital "Returns," in the preparation of which they should be instructed during the last six months of their precollegiate course. The results of these examinations will determine the order of merit according to which lads will be drafted into the Medical School.

9. The course of instruction at the Medical School will extend over three years, and school pay for the entire period will be Rupees 9 per mensem. On completion of the third year of study, on examination, if found qualified for advancement, they will be promoted to the grade of Civil Hospital Assistant and receive the undermentioned salary contingent on successfully passing periodical examinations :—

	Pay. RS.	Charge Allowance.
One to seven years' service	25	Varying from Rupees 10 to Rupees 25 according to circumstances.
Eight to fourteen years' service	35	
Fifteen years and upwards	55	

10. Civil Hospital Assistants will be eligible for leave and pension under the rules applicable to the Uncovenanted Civil Service.

11. Successful candidates will be bound by articles of agreement to serve Government for a period of seven years from date of receiving certificate of qualification from the Medical School.

FORM OF APPLICATION for Admission to the Examination for "CIVIL MEDICAL PUPILS."

1	Candidate's house or village name and name *in full* in English.
2	Father's name and house or village name *in full* in English.
3	Father's rank and occupation.
4	Caste of candidate.
5	Age of candidate.
6	Name of school at which educated, or, if privately educated, name of tutor, and when passed the Middle School Examination.
7	Present residence, district, taluk, village; address *in full.*
8	Place at which candidate desires to be examined.
9	What vernacular language does candidate wish to be examined in ?
10	What hospital does he elect to serve in ?
11	Has the candidate forwarded herewith the certificates required in paragraph 2 of the notification dated 7th May 1886 ?

Station and date of application.

Signature of Candidate.

N.B.—If the application be not properly filled up in every respect, it will be returned to the applicant, and his name will not be registered for examination.

(By order.)

Office of Commissioner for the U.C.S. Examinations, Madras, 7th May 1886.

E. H. ELLIOT, *Secretary.*

MILITARY DEPARTMENT OF THE MEDICAL SUBORDINATE ESTABLISHMENT.

NOTICE is hereby given that twenty candidates will be entertained for the Military Department of the Medical Subordinate Establishment.

2. Candidates must not be below sixteen nor above twenty years of age, and they must produce testimonials as to character signed by either Europeans or Natives of respectable position, and certificates of age, vaccination, personal marks, and physical fitness for Military service signed by a Commissioned Medical Officer of the Medical Staff or of the Indian Medical Service.

3. Admission is equally open to the sons of soldiers and of persons engaged in civil occupations; but, other things being equal, the preference will be given to the sons of native commissioned and non-commissioned officers and soldiers.

4. The Middle School Examination will be considered the standard for educational requirements, and candidates who have passed this or any higher test will be eligible to compete. Students who have been dismissed from medical schools for inefficiency or misconduct are not eligible for examination.

5. Should the number of candidates exceed twenty, they will be required to undergo a competitive examination. Assuming that the number of candidates will exceed twenty, applications in the annexed tabular form for admission to this examination (which will be held in any military or civil station of the Madras Presidency or of Burmah where there may be a Medical Officer to superintend the candidates), with the necessary certificates, must be sent to the undersigned on or before the 10th July next.

6. The examination will be held on the 14th August next and will be conducted by means of printed papers. Candidates will have two papers to answer—one a paper on language, the other a paper on translation.

7. Each application must be superscribed "Application for Admission to the Examination for Native Military Pupils" and be accompanied with a receipt showing that the examination fee of *Rupees five* has been paid into a Government treasury.

8. Successful candidates will be designated "Native Military Pupils" and will be sent direct to the Auxiliary Medical School at Rayapuram; they will not be attested or gazetted.

9. They will undergo a collegiate training for three years, after which period, if reported qualified, they will be admitted into the service as "Sub-Hospital Assistants" and after attestation transferred to a Military hospital for duty.

10. The position of Native Military Pupils on the list of Sub-Hospital Assistants will depend on the place taken at the penultimate and final examinations at the Auxiliary Medical School.

11. Native Military Pupils will receive the following monthly rates of pay, which are inclusive of compensation for dearness of provisions:—

	Pay.	Extra Pay for English Qualification.
	RS.	RS.
First year	6	2
Second year	7	2
Third year	8	2

with quarters, clothing, and books and appliances for study. When not provided with free quarters, they will receive the hutting allowance authorized for Havildars.

12. In the event of a "Native Military Pupil" failing to pass the periodical college examinations or misconducting himself, he may be summarily removed by the Surgeon-General with the Government of Madras, and all certificates to which he would otherwise be entitled be withheld.

13. Sub-Hospital Assistants will be required to sign a declaration to the effect that they will serve Government for a period of seven years in the rank of "Hospital Assistants" unless prevented by physical inability from so doing. Should they apply for their discharge before the expiry of this period, they must refund the amount of salary received during their period of service. During peace Hospital Assistants may claim their discharge after a service of seven years.

14. Members of the Hospital Assistant Class will be employed in hospitals of native troops and followers, in lock hospitals, and in staff appointments.

15. The ranks will be—

Senior Hospital Assistant.
Hospital Assistant { First Grade. / Second do. / Third do.
Sub-Hospital Assistant.

16. They will rank below all Native Commissioned Officers and Medical Warrant Officers and above all Native Non-Commissioned Officers.

17. Senior Hospital Assistants who have long, faithful, and honorable service will be eligible for the civil distinction of Bahadur, Rai, Rai Bahadur, &c.

18. The authorized establishment of Senior Hospital Assistants will be 10 per cent. on the total strength of Hospital Assistants.

19. The monthly rates of pay will be—

	Pay of Rank.	Extra Pay for English Qualification.
	RS.	RS.
Senior Hospital Assistant	55	25
Hospital Assistant, First Grade	40	20
Hospital Assistant, Second do.	30	10
Hospital Assistant, Third do.	20	5
Sub-Hospital Assistant	12	4

20. Members of the Hospital Assistant Class travelling on duty, on field or foreign service, in camps of exercise, and during the period they may be in camp on account of sickness amongst troops will receive a field allowance at the following monthly rates:—

	RS.
Senior Hospital Assistant	15
Hospital Assistant, First Grade	10
Hospital Assistant, Second do.	5
Hospital Assistant, Third do.	5
Sub-Hospital Assistant	5

21. Members of the Hospital Assistant Class employed at Port Blair in British Burmah or at Aden will receive field batta and free rations (or compensation in lieu of rations).

22. Any local, horse, and extra allowances will continue to be granted under existing regulations.

23. Members of the Hospital Assistant Class will be provided with free quarters while in cantonments. When not provided with quarters, hutting money under the rules in force will be granted at the rates authorized for Jemadars.

24. Sub-Hospital Assistants will receive clothing or compensation in lieu as at present.

25. On attestation they will receive a grant of Rupees 30 as kit money and an annual allowance of Rupees 4 to aid in keeping it up.

26. All ranks of the Hospital Assistant Class may be allowed leave on full pay for a period not exceeding sixty days in each year. Leave in excess of the above period involves the forfeiture of one-fourth salary and will be limited to six months, except on medical certificate, when an extension of a further period not exceeding six months, on renewed medical certificate, may be granted.

27. Compensation for dearness of provisions under the rules in force is admissible to all members of the Hospital Assistant Class.

28. Donation batta when authorized will be passed at the following monthly rates:—

	RS.
Senior Hospital Assistant	15
Hospital Assistant	10
Sub-Hospital Assistant	10

29. Compensation for losses will be granted at one-and-a-half months' pay excluding the allowance for English qualification.

30. Before he can be advanced to a superior grade, a Hospital Assistant will be required to pass an examination for which he may present himself after a service of four years in each of the lower grades.

31. Promotion from the rank of Sub-Hospital Assistant to that of Hospital Assistant will be made according to seniority, provided the subordinate is reported to be well conducted and in every way efficient.

32. Second and Third Grade Hospital Assistants will be advanced to the First and Second Grades, respectively, after completing a service of five years in the lower grade, provided they are qualified by examination and good conduct.

33. The promotion of First-grade Hospital Assistants to the rank of Senior Hospital Assistant will be made by selection for ability and merit, and this selection will depend on the official reports of their conduct and qualifications.

34. Sub-Hospital Assistants will take rank as such from the date on which they became Passed Medical Pupils.

35. A Hospital Assistant is entitled to retire after a service of thirty years, reckoning from the date of appointment to the rank of Sub-Hospital Assistant, on a pension equal to one-half his average monthly pay during the preceding five years.

36. A Hospital Assistant declared by a Medical Board to be unfit for further duty is entitled to the following monthly rates of invalid pension:—

Over 25 years' service, one-half the average monthly pay during the preceding five years.

Over 15 and under 25 years' service, one-third the average monthly pay during the preceding five years.

37. If invalided on account of intemperance or irregular habits, he will be restricted to a pension equivalent to three-fourths the sum to which he would otherwise have been entitled.

38. A Hospital Assistant invalided on account of wounds or of injuries received on service will receive the following monthly rates of pension:—

Over 25 years' service, the full amount of his average monthly pay during the preceding five years.

Over 15 and under 25 years' service, one-half of his average monthly pay during the preceding five years.

Under 15 years' service, one-third of his average monthly pay during the preceding five years.

39. Retirement will be compulsory at the age of 55 years.

40. Family pension and prize-money will be granted as follows:—

Senior Hospital Assistant, as Jemadar of Infantry.

Hospital Assistant and Sub-Hospital Assistant, as Havildar.

FORM OF APPLICATION for Admission to the Examination for "NATIVE MILITARY PUPILS."

*1	Candidate's house or village name and name *in full* in English.
*2	Father's name and house or village name *in full* in English.
3	Father's rank and occupation.
4	Caste of candidate.
5	Religion of candidate.
6	Present age of candidate.
7	Name of school, where educated, or, if privately educated, the name of tutor, and date of the Middle School Examination.
8	Present residence—district, taluk, village; address *in full*.
9	Place at which candidate desires to be examined.
10	What vernacular language does candidate talk.
11	Has candidate forwarded herewith the certificates required in paragraph 2 of the notification dated May 1886.

* If the applicant is a Eurasian, the "Christian" name will be given instead of the "house or village name."

Station and date of application.

Signature of Candidate.

N.B.—If the application be not properly filled up in every respect, it will be returned to the applicant, and his name will not be registered for examination.

(By order.)

Office of Commissioner for the U.C.S. Examinations,
Madras, 25th May 1886.

E. H. ELLIOT,
Secretary.

WANTED three Telugu Matriculates for Teacherships in the Hospet Range. Salary of each post, Rupees 15 per mensem.

Apply, with copies of testimonials, to the undersigned.

Hospet, 4th June 1886.

J. VITTALPANT,
Dy. Inspector of Schools, Hospet Range, Bellary District.

WANTED an F.A. whose optional language is Telugu for the Head Mastership of the First-grade Local Fund Middle School, Gudivada. Salary Rupees 40 per mensem. Preference will be given to trained men.

Apply to the undersigned with testimonials.

Masulipatam, 11th June 1886.

V. KAMESWARA ROW,
Dy. Inspector of Schools, Masulipatam Range.

PERSONS desirous of employment in the Revenue Department of the Cuddapah District, who have passed the Middle School Examination in the First Class or any higher University Examination, are invited to apply to the Acting Collector of the Cuddapah District. Only applications from the persons mentioned above will be considered.

Applicants should give in their applications the following particulars in tabular form:—

(1) Age.
(2) Caste.
(3) Examinations passed.
(4) Lowest post the applicant is prepared to take.
(5) Present appointment if any.
(6) Service if any.
(7) Lands held in the Cuddapah District.
(8) Relations in the Cuddapah District.
(9) *Copies* of any testimonials the applicant may wish to be considered.

Such applications should be on an eight-anna stamp.

Applications deficient in the above particulars will not be considered, but complete applications will be registered in the office of the Collector and will be carefully considered when vacancies occur.

Cuddapah Collector's Office, Camp Rayachoti,
14th June 1886.

G. STOKES,
Acting Collector.

CANDIDATES for the post of Supervisor vacant in the Trichinopoly Local Fund Circle are informed that the post has been filled up.

Trichinopoly District Board's Office,
10th June 1886.

H. R. FARMER,
President.

WANTED a Sub-Overseer in the Local Fund Engineering Department, Tanjore District, on a salary of Rupees 20 per mensem *plus* Rupees 7-8-0, travelling allowance (according to the Travelling Allowance Code).

Applicants must be young and have passed the Second or Third Class Overseer's or Draughtsman's Tests and send in their applications to the undersigned.

Tanjore District Board's Office,
Tanjore, 31st May 1886.

J. B. PENNINGTON,
President, District Board.

PRIVATE ADVERTISEMENTS.

THE Administrator to the Estate of the late Surgeon WILLIAM MAYBERRY being about to close the account of the said Estate, notice is hereby given that all persons having claims against the Estate which have not been proved and registered must prefer such claims to Messrs. Arbuthnot and Co. on or before the 28th of June next, after which date no claims will be received or admitted.

Madras, 27th May 1886.

per pro. ARBUTHNOT AND CO.,
R. J. H. ARBUTHNOT.

BANK OF MADRAS.

NOTICE is hereby given that the Share Transfer Books of the Bank will be closed from the 30th instant until payment of the half-yearly dividend.

(By order of the Directors.)

D. A. J. CROMBIE,
Secretary and Treasurer.

Madras, 16th June 1886.

MADRAS: PRINTED AND PUBLISHED BY R. HILL, AT THE GOVERNMENT PRESS, FORT ST. GEORGE.

FORT ST. GEORGE GAZETTE SUPPLEMENT.

FRIDAY EVENING, JUNE 18, 1886.

METEOROLOGICAL RESULTS.

METEOROLOGICAL RESULTS from the MADRAS OBSERVATORY REGISTER.

1886.		Barometer reduced to 32°.	Thermometers. Corrected Daily Means. Dry.	Thermometers. Corrected Daily Means. Wet.	Thermometers. Observed Extremes. Max.	Thermometers. Observed Extremes. Min.	Maximum Solar Heat in Vacuo.	Humidity.	Wind. Prevailing Direction.	Wind. Daily Velocity.	Depth of Rain.	Clear Sky.	General Weather.
June.		Inches.	°	°	°	°	°	Cts.	Points.	Miles.	Inches	Cts.	
10th.	Thurs. ..	29·758	83·2	79·2	92·0	77·9	135·0	83	S. by W.	175	..	65	Passing clouds.
11th.	Fri. ..	29·751	84·5	79·4	93·8	78·2	140·9	79	South.	268	..	90	Fine.
12th.	Sat. ..	29·699	86·0	79·5	98·9	79·7	141·5	74	S.S.W.	181	..	75	Do.
13th.	Sun. ..	29·610	87·1	79·3	98·7	81·3	141·9	69	S.W. by W.	177	..	75	Do.
14th.	Mon. ..	29·601	85·6	78·3	97·3	80·4	138·1	71	W.S.W.	200	1·46	30	Cloudy: thunder-storm at 10 P.M.
15th.	Tues. ..	29·599	82·7	76·7	93·7	76·1	142·7	75	W.S.W.	180	0·03	38	Passing clouds.
16th.	Wed. ..	29·601	85·9	76·6	95·1	79·0	142·7	64	S.W. by W.	272	..	53	Do.

The Standard Barometer and Thermometers are read at 10 A.M., 4 P.M., and 10 P.M., and the daily means are obtained by the application of hourly corrections, deduced from twenty years' observations. The cistern of the Barometer is twenty-two feet above the level of the sea, and the receiver of the Rain Gauge is two feet from the ground. The wind and rain registered are for the current Civil Day—from midnight to midnight.

The total quantity of rain collected since January 1st is 12·19 inches, the average due for the same period being 5·63 inches.

N. R. POGSON,
Government Astronomer.

MADRAS: PRINTED AND PUBLISHED BY R. HILL. AT THE GOVERNMENT PRESS, FORT ST. GEORGE.

FORT ST. GEORGE GAZETTE
SUPPLEMENT.

FRIDAY EVENING.
JUNE 18, 1886.

MUNICIPALITY OF MADRAS.

WEEKLY RETURN of BIRTHS and DEATHS within the MUNICIPALITY of the CITY of MADRAS, reported from 5th to 11th June 1886.

Municipal Divisions	1st.		2nd.		3rd.		4th.		5th.		6th.		7th.		8th.		Total.					
Area	5·31.		1·02.		0·91.		3·88.		2·81.		4·16.		2·19.		6·54.		26·82.					
Population	65,344.		77,497.		52,443.		10,793.		66,655.		19,010.		71,095.		37,940.		398,777.					
Villages	Minatchiammanpet, Rayapuram, Attapaliam, Vurdunchery, Cassimode, Sanjivirayanpet, Tondiarpet, Old Washermanpet, New Washermanpet, Jaindrapet, Kosapet, and Korukupet.		Peddunaickpet, Big Parcherry, and John Pereira's Garden.		Muthyalpet, Attapaliam, and Fort St. George.		Gunpowder Mills, Perambur, Vyasarpady, and Irunkundram.		Viranantotam, Choolay, Vepery, Pursewaukum, Perumalpet, Kosapet, Oobrapaliam, Narrainpaliam, Maskelyntotam, Rosspet, Peryamettu, Egmore, Komaleswaranpet, and Pudupet.		Nummalwarpet, Madavaukum, Kilpaukum, Chetput, Mannarsami Kovil, Mackay's Garden, and Nungumbaukum.		Pudupaukum, Chintadrepet, Narasingapuram, Chepauk, Teruvateswarenpet, and Triplicane.		Kistnampet, St. Thomé, Mirsaibpet, Kosapet, Rayapet, Pudupet, Luz, Teynampet, Adyar, Robertsonpet, Bimananpet, Murugampet, and Alvarpet.		Total.		Ratio per Mille per Annum	Mean of ten previous Years.		Ratio per Mille per Annum.
	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.		M.	F.	
BIRTHS.																						
Alive. Europeans .. (Christians)	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	38·5	11·2	12·1	30·8
East Indians .. (Christians)	..	..	..	..	1	1	..	..	1	2	..	..	..	..	1	..	3	3				
Native Christians (Christians)	2	3	..	..	3	1	..	..	4	5	..	..	1	1	2	1	12	11				
Hindus	28	18	22	26	19	16	4	6	23	26	7	2	21	17	13	10	137	121	43·1	123·3	116·2	40·1
Muhammadans	3	3	2	..	2	3	..	2	1	..	..	..	8	2	2	2	18	12	31·5	18·1	15·3	35·1
Total ..	33	24	24	26	25	21	4	8	29	33	7	2	30	20	18	13	170	147	41·3	152·6	143·6	38·6
Still-born. Europeans .. (Christians)	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	0·1	0·5	0·7
East Indians .. (Christians)	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..				
Native Christians (Christians)	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..				
Hindus	..	..	..	..	1	..	..	..	..	..	..	..	..	..	..	1	1	1	0·3	2·9	3·1	1·0
Muhammadans	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	1·0	0·7	1·7
Total ..	..	..	..	..	1	..	..	..	..	..	..	..	..	..	..	1	1	1	0·2	4·0	4·3	1·0
Total. Europeans .. (Christians)	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	38·5	11·3	12·6	31·5
East Indians .. (Christians)	..	..	..	..	1	1	..	..	1	2	..	..	..	..	1	..	3	3				
Native Christians (Christians)	2	3	..	..	3	1	..	..	4	5	..	..	1	1	2	1	12	11				
Hindus	28	18	22	26	20	16	4	6	23	26	7	2	21	17	13	11	138	122	43·5	126·2	119·3	41·1
Muhammadans	3	3	2	..	2	3	..	2	1	..	..	..	8	2	2	2	18	12	31·5	19·1	16·0	36·8
Total ..	33	24	24	26	26	21	4	8	29	33	7	2	30	20	18	14	171	148	41·5	156·6	147·9	39·6
Total of Males and Females ..	57		50		47		12		62		9		50		32		319		..	304·5		..
Ratio per Mille per Annum ..	46·7		33·5		46·6		57·8		48·3		24·6		36·5		43·8		41·5		..	39·6		..
DEATHS.																						
Small-pox	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	6·2	7·0	1·7
Measles	..	..	2	2	1	..	1	..	1	..	..	..	1	2	..	..	6	4	1·3	1·1	0·6	0·2
Fevers	7	10	4	8	2	6	1	1	1	6	2	2	4	6	1	1	22	40	8·1	31·1	30·8	8·0
Dysentery	2	..	..	1	2	4	..	1	4	4	2	1	1	2	2	1	13	14	3·5	9·7	8·7	2·3
Diarrhœa	..	1	1	2	..	..	..	1	..	..	..	..	2	..	2	2	5	6	1·4	6·7	6·0	1·6
Cholera	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	2·8	2·5	0·6
Other Diseases	6	9	12	19	14	4	5	3	11	6	2	3	11	15	9	7	70	66	17·7	75·2	73·3	19·3
Total ..	15	20	19	32	19	14	7	6	17	16	6	6	19	25	14	11	116	130	32·0	132·8	128·9	34·1
Total of Males and Females ..	35		51		33		13		33		12		44		25		246		..	261·7		..
Ratio per Mille per Annum ..	28·7		31·2		32·7		62·6		25·7		32·8		32·1		34·2		32·0		..	..		..
Number Buried ..	27		29		25		12		24		12		35		18		182		246			
Number Burned ..	8		22		8		1		9		..		9		7		64					

WEEKLY RETURN of BIRTHS and DEATHS within the MUNICIPALITY of the CITY of MADRAS, reported from 5th to 11th June 1886—(*Continued*).

Class.	Order.		Christians.							Hindus.			Muhammadans.			Total.		
		Population of each Class	39,094.							310,279.			49,404.			398,777.		
			Europeans.		East Indians.		Native Christians.		Ratio per Mille per Annum.	M.	F.	Ratio per Mille per Annum.	M.	F.	Ratio per Mille per Annum.	M.	F.	Ratio per Mille per Annum.
			M.	F.	M.	F.	M.	F.										
I.		GENERAL DISEASES.																
		Sub-Division A ..	..	..	..	1	2	3	7·9	22	33	9·2	5	7	12·6	29	44	9·5
		" B ..	..	..	..	..	..	..	..	9	5	2·3	3	3	6·3	12	8	2·6
II.		LOCAL DISEASES.																
	1	Disease of the Nervous System ..	..	..	..	..	1	2	3·9	25	29	9·0	4	4	8·4	30	35	8·5
	2	Eye ..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
	3	Ear ..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
	4	Nose ..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
	5	Circulatory System ..	..	..	..	..	..	..	..	1	..	0·1	..	..	..	1	..	0·1
	6	Absorbent ..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
	7	Ductless Glands ..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
	8	Respiratory System ..	..	..	1	..	..	..	1·3	3	3	1·0	1	..	1·0	5	3	1·0
	9	Digestive " ..	..	..	1	..	..	2	3·9	19	19	6·3	1	1	2·1	21	22	5·6
	10	Urinary " ..	..	..	..	..	..	..	..	1	..	0·1	..	..	..	1	..	0·1
	11	Generative " ..	..	..	..	..	..	2	2·6	..	4	0·6	..	..	..	..	6	0·7
	12	Organs of Locomotion ..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
	13	Cellular Tissue ..	..	..	1	..	..	..	1·3	1	..	0·1	..	..	..	2	..	0·2
	14	Cutaneous System ..	..	..	..	..	..	..	..	3	..	0·5	..	..	..	3	..	0·4
III.		CONDITIONS, &c. ..	..	..	..	..	1	..	1·3	2	2	0·6	..	1	1·0	3	3	0·7
		Debility ..	..	..	..	..	1	3	5·3	7	4	1·8	..	2	2·1	8	9	2·2
IV.		POISONS ..	..	..	..	..	..	..	..	1	..	0·1	..	..	..	1	..	0·1
V.		INJURIES.																
	1	Battle ..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
	2	Accidental ..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
	3	Homicidal ..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
	4	Self-inflicted ..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
	5	Judicial ..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
VI.		SURGICAL OPERATIONS	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
		No appreciable Diseases ..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
		Total ..	..	..	3	1	5	12	27·9	94	99	32·3	14	18	33·6	116	130	32·0
		Average of the corresponding weeks for ten previous years ..	12·1				11·3		31·1	105·9	102·7	34·9	14·8	14·9	31·2	132·8	128·9	34·1

Amongst these Births and Deaths are registered the following in the Institutions named below:—

	BIRTHS.	DEATHS.
Monegar Hospital, including the Native Infirmary, Leper Hospital, and Ramasawmy's Lying-in Hospital	14	6
General Hospital, including the Regimental and European Detail Hospitals ..	..	1
Lying-in Hospital	36	..
Total ..	50	7

N. JESUDASEN, M.A., M.D.,
Health Officer, Municipal Commission.

Municipal Office, Madras, 17th June 1886.

MADRAS: PRINTED AND PUBLISHED BY R. HILL, AT THE GOVERNMENT PRESS, FORT ST. GEORGE.

UPPER PRIMARY SCHOOL EXAMINATION.

In accordance with paragraph 9 of the Government Notification in the Educational Department of 8th April 1880, the following List of Candidates in the TOWN OF MADRAS who have passed the UPPER PRIMARY SCHOOL EXAMINATION of December 1885 is published :—

NOTE.—In the statement—
a—First Language, Reading, and Writing (Vernacular).
b—Arithmetic.
c—Geography.
d—Poetry and Grammar (First Language).
e—Second Language, Reading, Writing (English).
f—History—(e) = English History ; (i) = Indian History.
g—Hygiene.

Girls' Schools.

Names.	Schools from which they came up.	Schools at which examined.	Branches in which passed.
Esther Gnanarathnam	Christian Female Normal School, Madras.	Christian Female Normal School, Madras.	a, b, c, d, and f (i) (Tamil).
Ellen Ruthnam			
Thanamani Ammal			
Jeevamani Ammal			
Goonabooshanam Ammal			
Santhoi David			
Paripuram Ammal			
Thevasittam			
Jessie			
Jeevarathnam			
Koratur Lokambal	Free Church Mission Madras Girls' Day School.	Free Church Mission Madras Girls' Day School.	a, b, c. d, and f (i) (Tamil).
Madras Ammakannoo			
Amingikarai Valliammal			
Chidambaram Balambal			
C. Angayaccannoo			
M. Thanam Ammal			
M. Ruthnam Ammal			
N. Manikkam			
S. Chengamalammal			
V. Kamalam Ammal			
M. Vethavallithoyar			a, b, c, d, and f (Telugu).
P. Meenatchiammah			
K. Rukkumaniammah			
P. Bungarammah			
V. Bungarammah			
M. Thoyarammah			
C. Meenambah			
T. Parvathiammah			
Thanam Pushpam			

Girls' Schools—(Continued).

Names.	Schools from which they came up.	Schools at which examined.	Branches in which passed.
V. Govindammah C. Manikkavelu A. Thoraisaniammal V. Ammaniammal W. Chellammal P. Thayarammal A. Thirupoorammal V. Janakiammal	Free Church Mission Black Town Girls' School.	Free Church Mission Black Town Girls' School.	a, b, c, d, and f (i) (Tamil).
G. Andal M. Ammakannoo S. Pushpum T. Kumuthavalli	Free Church Mission Balica Patasala.	Free Church Mission Balica Patasala.	a, b, c, d, and f (i) (Telugu).
Chinnachalla Ammal Gnanaselvam Ammal Amirtham Ammal Thorasany Ammal Thoyar Ammal	Free Church Mission Chetty Girls' School.	Free Church Mission Chetty Girls' School.	a, b, c, d, and f (i).
Amboojam Ammal Puspam Ammal Alamaloo Ammal Ruthnavelu Ammal	Free Church Mission Mint Street Girls' School.	Free Church Mission Mint Street Girls' School.	a, b, c, d, and f (i).
Mooroogathay Ammal Sany Ammal Rajum Ammal Thillanayagee Ammal Govindammal	Free Church Mission Girls' School, Rayapuram.	Free Church Mission Girls' School, Rayapuram.	a, b, c, d, and f (i).
Emily David Susan David Mary Manikum Gnanaruthnam Solomon Lydia Gnanabaranam Reace S. Seth Sarah Seth Margaret Lazarus	Free Church Mission Girls' Boarding School.	Free Church Mission Girls' Boarding School.	a, b, c, d, and f (i).
Letitia Bushanam Mary Evers Ada Patton Amy Fox Ethel Fox Ellen Trutwein Alice Spence	Government Female Normal School, Madras.	Government Female Normal School, Madras.	a, b, c, d, and f (i).
Millicent Regel Mabel King Mabel Jones Ada Berryman Mary Dillon Ruth Ramsbottom Georgiana Mascurine Agnes Cunningham Eileen Westerman Isabella Nagle Winfred D'Silva Ruby Stewart	Wesleyan Mission Girls' Day School, Madras.	Wesleyan Mission Girls' Day School, Madras.	a, b, c, d, and f (e).
Satur, S. Johnstone, C. Galway, S. Simons, B. Fransz, L. Marquis, A.	St. Francis Xavier's Girls' School, Madras.	St. Francis Xavier's Girls' School, Madras.	a, b, c, d, and f (e).
Mary Peddie Thayanidi Arokia Mary	St. Ann's Anglo-Vernacular School, Rayapuram.	St. Ann's Anglo-Vernacular School, Rayapuram.	a, b, c, d, and f (i).

Girls' Schools—(Continued).

Names.	Schools from which they came up.	Schools at which examined.	Branches in which passed.
Florence Ellis Rustomjee Framjee Mabel Wiltshire Lilian Floate Amelia Taylor Bella Teixeira	Emmanuel Church Girls' School, Madras.	Emmanuel Church Girls' School, Madras.	a, b, c, d, and f (i).
Dora Scott Edith Gabell Grace Chapman	Union School, John Pereira's.	Union School, John Pereira's.	a, b, c, d, and f (e).
Fanny Peters Joe Claisbe Phillip Scaulin Lowie Holding Alfred Ashe Gerty Regel	Medical Mission Girls' School, Rayapuram.	Medical Mission Girls' School, Rayapuram.	a, b, c, d, and f (e).
Gertrude Wale Thomas Young	Methodist Seminary, Vepery.	Methodist Seminary, Vepery.	a, b, c, d, and f (e).
Rebecca Anthony Theodocia Andrew Paul	S.P.G. Ladies' Association Girls' Boarding School, Madras.	S.P.G. Ladies' Association Girls' Boarding School, Madras.	a, b, c, d, and f (i).
Kathiga Bee Bee Fatima Bee Bee	Hobart School for Muhammadan Girls, Royapettah.	Hobart School for Muhammadan Girls, Royapettah.	a, b, c, d, and g.
Gertrude Fullinfaw Grace Tallent Grace Alexander Florence James Henrietta Burby George Kent	Baptist Girls' Day School, Vepery.	Baptist Girls' Day School, Vepery.	a, b, c, d, and g.
Eliza Francis Charlotte D'Monte Beatrice Mascarenhas Edwin Dique Prabalaroyan M. L. Simon Robert D'Rozario	Roman Catholic Girls' School, Royapettah.	Roman Catholic Girls' School, Royapettah.	a, b, c, d, and f (i).
Naomi Ward Winifred Wheatley Lucy Herbert Zuleika Doyle Mary Hall Jane Cormac Amy Stuart Nesta Doyle Clara Hall Ethel Taylor Evelyn Dalgairns Mabel Bower Emily Mariner	Doveton Girls' School, Vepery.	Doveton Girls' School, Vepery.	a, b, c, d, and f (e).
Jessie Brown Mabel Lynsdale Gertrude Allan Mary Hollingsworth Alice Borthwick Agnes Norrison Millicent French Cassie Beale Dora Meyers	Davidson Street Girls' School, Madras.	Davidson Street Girls' School, Madras.	a, b, c, d, and f (e).
Amelia Cooper Lydia Jacob Richard Cousins Edwin Holloway	Christ Church School, Mount Road.	Christ Church School, Mount Road.	a, b, c, d, and f (e).

Girls Schools—(Continued).

Names.	Schools from which they came up.	Schools at which examined.	Branches in which passed.
Sarah Browne	St. Matthias' Girls' School, New Town.	St. Matthias' Girls' School, New Town.	a, b, c, d, and f (c).
Eva Tully			
Sophia Smith			
Jane Connolly			
Adelaide Buckley			
Isabel Damerum			
Margaret Palfrey			
Mary Barnett	Civil Female Orphan Asylum, Madras.	Civil Female Orphan Asylum, Madras.	a, b, c, d, and f (e).
Mabel Merchant			
Sarah Williamson			
Louisa Dowleg			
Daisy Hamilton			
Mary Collins			
Mary Abraham			
Mabel Leavers			
D. Ammoy Ammal	London Mission Girls' School, Varadamuthiappen Street.	London Mission Girls' School, Varadamuthiappen Street.	a, b, c, d, and f (i).
Bowers, Mary	Presentation Convent Special School, Vepery.	Presentation Convent Special School, Vepery.	a, b, c, d, and f (e).
Harris, Gerty			
Quinn, Ellen			
Susan Buckman	Military Female Orphan Asylum, Madras.	Military Female Orphan Asylum, Madras.	a, b, c, d, and f (e).
Louisa Rahilly			
Eleanora Williams			
Elizabeth Cox			
Hellen Conway			
Esther Allis			
Alice Barrow			
Priscilla Nuvell			
Jane Quinn			
Eva Browne			
Rachel Brodie			
Elizabeth Pearston			
M. Baldock	St. Joseph's School, Perambur.	St. Joseph's School, Perambur.	a, b, c, d, and f (e).
E. Brown			
J. Bourard			
E. Dawson			
R. Watkins			
Vadamanikum	Lutheran Mission Girls' School, Pursewakam.	Lutheran Mission Girls' School, Pursewakam.	a, b, c, d, f, and g.
Savandariam			
R. Navaneetham	C. E. Z. M. Girls' School. John Pereira's.	C.E.Z.M. Girls' School, John Pereira's.	a, b, c, d, and g.
P. Jeevarathnum	C.M.S. Girls' School, Black Town.	C.M.S. Girls' School, Black Town.	a, b, c, d, and g.
P. Lutchmoo			
S. Vatham			
I. Alamaloo			
P. Adykkalam	C. E. Z. M. Girls' Schools, Chintadripet.	C. E. Z. M. Girls' School, Chintadripet.	a, b, c, d, and g.
S. Ponnamani			
V. Athilutchmoo			
S. Gyana Sundaram ..			
S. Vadivambal			
N. Manikam			
J. Gnanatheepam			
S. Nagomi			
S. Rachel			
A. Annammal			
J. Ruthnamuthoo			
V. Neelombari			
G. Locambal			
S. Pakyam			
V. Sundaram			

Girls' Schools—(Continued).

Names.	Schools from which they came up.	Schools at which examined.	Branches in which passed.
N. Kooppammal	C. E. Z. M. Girls' School, Komalaswarampet.	C. E. Z. M. Girls' School, Komalaswarampet.	a, b, c, d, and g.
K. Andal			
K. Mohanambal			
M. Savoopakyam			
R. Soobboo	C. E. Z. M. Girls' School, New Town.	C. E. Z. M. Girls' School, New Town.	a, b, c, d, and g.
C. Mooniammal			
V. Janaky			
A. Latchimyammal	Free Church Mission Girls' School, Washermanpet.	Free Church Mission Girls' School, Washermanpet.	a, b, c, d, and g.
Chellammal			
Devanasam David	S.P.G. Ladies' Association Girls' Boarding School, Madras.	S.P.G. Ladies' Association Girls' Boarding School, Madras.	a, b, c, d, e, & f (i).
Maragatham Sagayam			
Thungammal Yesudian			
Mary Sebastian			
Mary Vethanayagam			
Clara Humphreys	Pursewakam Mixed School.	Pursewakam Mixed School.	a, b, c, d, and f (i).
Jessie Nailor			
Passanha, Will.	St. Peter's Girls' School, Rayapuram.	St. Peter's Girls' School, Rayapuram.	a, b, c, d, and f.
Cronan, Hilda			
Texeira, Winnie			
Passanha, Geo. U.			
Yethiraja	London Mission Hindu Girls' School, Chulai.	London Mission Hindu Girls' School, Chulai.	a, b, c, d, and g.
Thanam			
Ganambah			
Samaladevi	London Mission Hindu Girls' School, Pursewakam.	London Mission Hindu Girls' School, Pursewakam.	a, b, c, d, and g.
Subbadra			
Thayar Mungatha			
Emnaic Anthony	London Mission Christian Girls' Boarding School, Vepery.	London Mission Christian Girls' Boarding School, Vepery.	a, b, c, d, and e.
Gnanamma Martin			
Samathanam Gurupatham			
Annamarial Unmayudian			
Paripuranam David			
Candas Peter			
Gnanakan			a, b, c, d, and f (i).
Jane Manomoney			
Ada			
Rachel			
Leah			
Grace Jeremiah			a, b, c, d, and e.
Bishop, Florence	Presentation Convent Pay School, Black Town.	Presentation Convent Pay School, Black Town.	a, b, c, d, and f (e).
Burton, Mary			
Green, Christy			
Stevenage, Eva			
Van Haeften, Angelina			
Brown, Maggie	Presentation Convent Orphan School, Black Town.	Presentation Convent Orphan School, Black Town.	a, b, c, d, and f (i).
Baratt, Stella			
Brisson, Javet			
D'Silva, Mabel			
D'Silva, Rachel			
D'Souza, Grace			
Dique, Maud			
Elliott, Martha			
Elkington, Edith			
Elkington, Ellen			
Harrison, Alice			
O'Connell, Antonia			
Tower, Emma			
White, Nancy			

ISABEL BRANDER,
Inspectress of Girls' Schools,
Northern, Southern, and Central Ranges.

Madras, 5th June 1886.

MADRAS: PRINTED AND PUBLISHED BY R. HILL, AT THE GOVERNMENT PRESS, FORT ST. GEORGE.

FORT ST. GEORGE GAZETTE
SUPPLEMENT.

FRIDAY EVENING,
JUNE 18, 1886.

Bill introduced into the Council of the Governor-General for making Laws and Regulations, or published under Rule 22.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 20th May 1886, and was referred to a Select Committee :—

No. 6 OF 1886.

THE INDIAN BANKRUPTCY BILL, 1886.

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THE FIRST SCHEDULE.—MEETINGS OF CREDITORS.
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THE THIRD SCHEDULE.—ENACTMENTS REPEALED.

A Bill to amend and consolidate the Law of Bankruptcy and Insolvency in British India.

WHEREAS it is expedient to amend and consolidate the law relating to bankruptcy and insolvency; It is hereby enacted as follows:—

Preliminary.

Short title, extent, and commencement.

1. (1) This Act may be cited as the Indian Bankruptcy Act, 1886.

(2) It shall extend to the whole of British India, and shall apply to all British subjects of Her Majesty within the dominions of Princes and States in India in alliance with Her Majesty, whether in the service of the Government of India or otherwise, and to all Native Indian subjects of Her Majesty in any place beyond the limits of British India.

(3) It shall, except as by this section otherwise provided, come into force on such date as the Governor-General in Council may, by notification in the official Gazette, fix in this behalf, which date is in this Act referred to as the commencement of this Act.

(4) Any power conferred by this Act to make rules may be exercised at any time after the passing of this Act; but a rule so made shall not take effect till the commencement of this Act.

PART I.

PROCEEDINGS FROM ACT OF BANKRUPTCY TO DISCHARGE.

Acts of Bankruptcy.

Acts of bankruptcy.

2. (1) A debtor commits an act of bankruptcy in each of the following cases:—

(*a*) if in British India or elsewhere he makes a conveyance or assignment of his property to a trustee or trustees for the benefit of his creditors generally;

(*b*) if in British India or elsewhere he makes a fraudulent conveyance, gift, delivery or transfer of his property, or of any part thereof;

(*c*) if in British India or elsewhere he makes any conveyance or transfer of his property or any part thereof, or creates any charge thereon, which would, under this or any other enactment for the time being in force, be void as a fraudulent preference if he were adjudged bankrupt;

(*d*) if with intent to defeat or delay his creditors he does any of the following things, namely, departs out of British India, or, being out of British India, remains out of British India, or departs from his dwelling-house, or otherwise absents himself, or begins to keep house, or closes his place of business, or suffers himself to be arrested or taken in execution for a debt not due, or submits collusively or fraudulently to an adverse decree, or procures himself, or his property, moveable or immoveable, to be attached or taken in execution.

(*e*) if he files in the Court a declaration of his inability to pay his debts or presents a bankruptcy petition against himself;

(*f*) if he gives notice that he has suspended, or that he is about to suspend, payment of his debts;

(*g*) if he makes to any of his creditors an offer of a composition in satisfaction of any his debts, or a proposal for a scheme of arrangement of his affairs;

(h) if he is imprisoned in execution of a decree or order of a Civil Court for a longer period than twenty-one days for making default in payment of a sum of money.

Receiving Order.

Jurisdiction to make receiving order.

3. Subject to the conditions specified in this Act, if a debtor has committed an act of bankruptcy, the Court may, on a bankruptcy petition being presented either by a creditor or by the debtor, make an order, in this Act called a receiving order, for the protection of the estate.

Restrictions on jurisdiction.

4. (1) The Court shall not have jurisdiction to make a receiving order unless—

(a) the debtor is, at the time of the presentation of the bankruptcy petition, in prison within the local limits of the jurisdiction of the Court, under an order of a Civil Court, for making default in payment of a sum of money; or

(b) the debtor, or, if he is a member of a firm, his partner or one of his partners, has, within a year before the date of the presentation of the bankruptcy petition, ordinarily resided or had a dwelling-house or place of business within those limits:

Provided as follows:—

(i) in any case where an application for declaring a debtor insolvent has been made under section 344 of the Code of Civil Procedure to any Court subordinate to the Court, and the Court is of opinion that the proceedings may be more advantageously conducted before itself and under this Act, the Court, on the application of the debtor or of any of his creditors, or of its own motion, may withdraw the proceedings from the subordinate Court, if competent so to do under its Letters Patent or section 25 of the Code of Civil Procedure, and may then make a receiving order under this Act in supersession of all or any of the proceedings which may have been previously taken under the said Code:

(ii) the Court may in any prescribed class of cases make a receiving order on a bankruptcy petition notwithstanding the restrictions imposed by clauses (a) and (b) of this sub-section.

(2) The application of the provisions of this Act to a case withdrawn under proviso (i) to sub-section (1) shall be subject to such modifications, if any, of those provisions as may be prescribed.

Conditions on which creditor may petition.

5. (1) A creditor shall not be entitled to present a bankruptcy petition against a debtor unless—

(a) the debt owing by the debtor to the petitioning creditor, or, if two or more creditors join in the petition, the aggregate amount of debts owing to the several petitioning creditors, amounts to five hundred rupees; and

(b) the debt is a liquidated sum, payable either immediately or at some certain future time; and

(c) the act of bankruptcy on which the petition is grounded has occurred within three months before the presentation of the petition.

(2) If the petitioning creditor is a secured creditor, he must in his petition either state that he is willing to give up his security for the benefit of the creditors in the event of the debtor being adjudged bankrupt, or give an estimate of the value of his security. In the latter case he may be admitted as a petitioning creditor to the extent of the balance of the debt due to him, after deducting the value so estimated, in the same manner as if he were an unsecured creditor.

Proceedings and order on creditor's petition.

6. (1) A creditor's petition shall be verified by affidavit of the creditor, or of some person on his behalf having knowledge of the facts, and be served in the prescribed manner.

(2) At the hearing the Court shall require proof of—

(a) the debt of the petitioning creditor;

(b) the act of bankruptcy, or, if more than one act of bankruptcy is alleged in the petition, some one of the alleged acts of bankruptcy; and,

(c) if the debtor does not appear, the service of the petition;

and, if satisfied with the proof, may make a receiving order in pursuance of the petition.

(3) If the Court is not satisfied with the proof of the petitioning creditor's debt, or of the act of bankruptcy, or of the service of the petition, or is satisfied by the debtor that he is able to pay his debts, or that for other sufficient cause no order ought to be made, the Court may dismiss the petition.

(4) Where the debtor appears on the petition, and denies that he is indebted to the petitioner, or that he is indebted to such an amount as would justify the petitioner in presenting a petition against him, the Court, on such security (if any) being given as the Court may require for payment to the petitioner of any debt which may be established against the debtor in due course of law, and of the costs of establishing the debt, may, instead of dismissing the petition, stay all proceedings on the petition for such time as may be required for trial of the question relating to the debt.

(5) Where proceedings are stayed, the Court may, if by reason of the delay caused by the stay of proceedings or for any other cause it thinks just, make a receiving order on the petition of some other creditor, and shall thereupon dismiss, on such terms as it thinks just, the petition on which proceedings have been stayed as aforesaid.

(6) A creditor's petition shall not, after presentment, be withdrawn without the leave of the Court.

Debtor's petition and order thereon.

7. (1) A debtor's petition shall allege that the debtor is unable to pay his debts, and the presentation thereof shall be deemed an act of bankruptcy without the previous filing by the debtor of any declaration of inability to pay his debts; and, if the debtor proves that he is entitled to present the petition, the Court shall thereupon make a receiving order, unless, in its opinion, the proceedings ought to have been taken before some other Court having jurisdiction under this Act.

(2) A debtor's petition shall not, after presentment, be withdrawn without the leave of the Court.

Effect of receiving order.

8. (1) On the making of a receiving order, the official assignee shall be thereby constituted receiver of the property of the debtor, and the debtor, if in prison, shall be released, and thereafter, except as directed by this Act, no creditor to whom the debtor is indebted in respect of any debt provable in bankruptcy shall have any remedy against the property or person of the debtor in respect of the debt, or shall commence any suit or other legal proceeding unless with the

leave of the Court and on such terms as the Court may impose.

(2) But this section shall not affect the power of any secured creditor to realize or otherwise deal with his security in the same manner as he would have been entitled to realize or deal with it if this section had not been passed.

Discretionary powers as to appointment of interim receiver and stay of proceedings.

9. (1) The Court may, if it is shown to be necessary for the protection of the estate, at any time after the presentation of a bankruptcy petition and before a receiving order is made, appoint the official assignee to be interim receiver of the property of the debtor, or of any part thereof, and direct him to take immediate possession thereof or of any part thereof.

(2) The Court may at a y time after the presentation of a bankruptcy petition stay any suit or other legal proceeding pending before any Judge or Judges of the Court or in any other Court in British India against the property or person of the debtor, and any Court in which proceedings are pending against a debtor may, on proof that a bankruptcy petition has been presented by or against the debtor, either stay the proceedings or allow them to continue on such terms as it may think just.

Service of order staying proceedings.

10. Where the Court makes an order staying any suit or other legal proceeding, or staying proceedings generally, the order may be served by sending a copy thereof, under the seal of the Court, by prepaid letter addressed to the Court before which the proceeding is pending and registered under Part III of the Indian Post Office Act, 1866.

Power to appoint special manager.

11. (1) If in any case the official assignee, having regard to the nature of the debtor's estate or business or to the interests of the creditors generally, is of opinion that a special manager of the estate or business other than the official assignee ought to be appointed, he may appoint a manager thereof accordingly to act until the property vests in the official assignee, or, if a special assignee is appointed as hereinafter provided, until that appointment takes effect, and to have such powers of the official assignee himself as may be entrusted to him by the official assignee.

(2) The debtor may be appointed special manager.

(3) The special manager shall give security and furnish accounts in such manner as the official assignee, subject to the control of the Court may direct, and shall receive such remuneration as the official assignee may, within limits prescribed and subject to that control, determine.

Advertisement of receiving order.

12. Notice of every receiving order, stating the name, address, and description of the debtor, the date of the order, the Court by which the order is made and the date of the petition, shall be published in the prescribed manner.

Power to Court to rescind receiving order in certain cases.

13. If in any case where a receiving order has been made on a bankruptcy petition it appears to the Court by which the order was made, upon an application by the official assignee, or by any creditor or other person interested, that by reason of the residence of the majority of the creditors in number or value, or the situation of the property of the debtor, in some part of British India or of Her Majesty's dominions elsewhere, beyond the limits within which the Court ordinarily exercises civil jurisdiction, or from any other cause, his estate and effects ought to be administered by some other Court having jurisdiction under this Act or under the Bankrupt or Insolvent Laws of some other part of Her Majesty's dominions, the Court, after such inquiry as to it may seem fit, may rescind the receiving order and stay all proceedings on, or dismiss, the petition, upon such terms, if any, as the Court may think fit.

Proceedings consequent on Order.

Debtor's statement of affairs.

14. (1) When a receiving order is made against a debtor, he shall prepare and submit to the official assignee a statement of and in relation to his affairs in the prescribed form, verified by affidavit, and showing the particulars of the debtor's assets, debts and liabilities, the names, residences and occupations of his creditors, the securities held by them respectively, the dates when the securities were respectively given, and such further or other information as may be prescribed or as the official assignee may require.

(2) The statement shall be so submitted within the following times, namely :—

(i) if the order is made on the petition of the debtor, within seven days from the date of the order ;

(ii) if the order is made on the petition of a creditor, within fourteen days from the date of the order.

But the Court may, in either case, for special reasons, extend the time.

(3) If the debtor fails to comply with the requirements of this section, the official assignee may, at the expense of the estate, cause a statement of affairs to be prepared in manner prescribed, and, if the default of the debtor was in the opinion of the Court without reasonable excuse, the Court may, on the application of the official assignee, or of any creditor, adjudge him bankrupt.

(4) Any person stating himself in writing to be a creditor of the bankrupt may, personally or by agent, inspect the statement prepared under sub-section (1) or sub-section (3) at all reasonable times, and take any copy thereof or extract therefrom ; but any person untruthfully so stating himself to be a creditor shall be punished, on the complaint of the official assignee, with imprisonment which may extend to three months, or with fine, or with both.

Proposal for composition or scheme of arrangement.

15. The debtor may within the time limited for the submission of the statement of his affairs, or, with the permission of the Court, at any time before he has been adjudged bankrupt, submit to the official assignee a proposal for a composition in satisfaction of the debts due to his creditors or a proposal for a scheme of arrangement of his affairs.

Public Examination of Debtor.

Public examination of debtor.

16. (1) Where the Court makes a receiving order it shall hold a public sitting, on a day to be appointed by the Court, for the examination of the debtor, and the debtor shall attend thereat, and shall be examined as to his conduct, dealings and property.

(2) The examination shall be held as soon as conveniently may be after the expiration of the time for the submission of the debtor's statement of affairs.

(3) The Court may adjourn the examination from time to time.

(4) Any creditor who has tendered a proof, or a legal practitioner authorized by him in this behalf, may question the debtor concerning his affairs and the causes of his failure.

(5) The official assignee shall take part in the examination, and for the purpose thereof may, subject to such directions as may be given by the Court, employ a legal practitioner.

(6) The Court may put such questions to the debtor as it may think expedient.

(7) The debtor shall be examined upon oath, and it shall be his duty to answer all such questions as the Court may put or allow to be put to him.

(8) Such notes of the examination as the Court thinks proper shall be taken down in writing, and shall be open to the inspection of any creditor at all reasonable times.

(9) When the Court is of opinion that the affairs of the debtor have been sufficiently investigated, it shall, by order, declare that his examination is concluded, but that order shall not preclude the Court from directing a further examination of the debtor as to his conduct, dealings or property whenever it may see fit to do so.

Composition or Scheme of Arrangement.

Consideration of proposal for composition or scheme of arrangement.

17. (1) Where a debtor has submitted a proposal for a composition in satisfaction of the debts due to his creditors or a proposal for a scheme of arrangement of his affairs, the official assignee shall, unless the Court otherwise directs, communicate the proposal in manner prescribed to each creditor mentioned in the debtor's statement of affairs and either summon him to attend a meeting to be held for the consideration of the proposal, or cause a notice to be served on him in manner prescribed requiring him, within a time to be specified in the notice, to notify in writing to the official assignee whether or not he accepts the proposal.

(2) The Court may at any time direct, and one-fourth in value of the creditors mentioned in the debtor's statement of affairs may, within the time specified in the notice served under sub-section (1), by requisition in writing, require, that a meeting of the creditors shall be held for the consideration of the proposal.

(3) With respect to the summoning of and proceedings at a meeting convened under this section, or any subsequent meeting of creditors, the rules in the first schedule shall be observed.

(4) Where the official assignee issues a notice under sub-section (1), requiring a creditor to notify whether or not he accepts a proposal, he shall send with the notice a summary of the debtor's statement of affairs, including the causes of his failure, and any observations thereon which the official assignee may think fit to make.

Acceptance, approval, and effect of composition or scheme.

18. (1) The composition or scheme proposed by the debtor shall not be deemed to be accepted by the creditors unless—

(*a*) where a meeting has been convened under the last foregoing section, the creditors who have proved resolve, by special resolution passed at that meeting or an adjournment thereof, that the proposal shall be accepted, or,

(*b*) where a meeting has not been convened under that section, a majority in number representing three-fourths in value of the creditors who have proved notify in writing to the official assignee their acceptance of the proposal.

(2) The composition or scheme shall not be binding on the creditors unless, after its acceptance by them, it is approved by the Court.

(3) The debtor or the official assignee may, after the conclusion of the public examination of the debtor, apply to the Court to approve any composition or scheme which has been accepted by the creditors, and notice of the time appointed for hearing the application shall be given to each creditor who has proved.

(4) The Court shall, before approving a composition or scheme, hear a report of the official assignee as to the terms of the composition or scheme and as to the conduct of the debtor, and any objections which may be made by or on behalf of any creditor.

(5) If the Court is of opinion that the terms of the composition or scheme are not reasonable, or are not calculated to benefit the general body of creditors, or in any case in which the Court is required under this Act where the debtor is adjudged bankrupt to refuse his discharge, the Court shall, or if any such facts are proved as would under this Act justify the Court in refusing, qualifying, or suspending the debtor's discharge, the Court may, in its discretion, refuse to approve the composition or scheme.

(6) If the Court approves the composition or scheme, the approval shall be testified in the prescribed manner

(7) A composition or scheme accepted and approved in pursuance of this section shall be binding on all the creditors so far as relates to any debts due to them from the debtor and provable in bankruptcy.

(8) A certificate of the official assignee that a composition or scheme has been duly accepted and approved shall, in the absence of fraud, be conclusive as to its validity.

(9) The provisions of a composition or scheme under this section may be enforced by the Court on application by any person interested, and an order of the Court made on the application may be executed as if it were a decree.

(10) If default is made in payment of any instalment due in pursuance of the composition or scheme, or if it appears to the Court, on satisfactory evidence, that the composition or scheme cannot, in consequence of legal difficulties, or for any sufficient cause, proceed without injustice or undue delay to the creditors or to the debtor, or that the approval of the Court was obtained by fraud, the Court may, if it thinks fit, on application by any creditor, adjudge the debtor bankrupt, and annul the composition or scheme, but without prejudice to the validity of any sale, disposition, or payment duly made or thing duly done under or in pursuance of the composition or scheme. Where a debtor is adjudged bankrupt under this sub-section, any debt provable in other respects, which has been contracted before the date of the adjudication, shall be provable in the bankruptcy.

(11) If, under or in pursuance of a composition or scheme, the official assignee or a special assignee is appointed to administer the debtor's property or manage his business, Part IV or Part V of this Act, as the case may be, and such other portions of the Act as may be prescribed, shall apply to the assignee as if he were an assignee in a bankruptcy, and as if the terms "bankruptcy," "bankrupt," and "order of adjudication" included respectively a composition or scheme of arrangement, a compounding or arranging debtor and an order approving the composition or scheme.

(12) Part III of this Act shall, so far as the nature of the case and the terms of the composition or scheme admit, apply thereto, the same interpretation being given to the words "assignee," "bankruptcy," "bankrupt," and "order of adjudication" as in the last preceding sub-section.

(13) A composition or scheme shall not be approved by the Court unless it provides for the payment in priority to other debts of all debts

directed to be so paid in the distribution of the property of a bankrupt.

(14) The acceptance by a creditor of a composition or scheme shall not release any person who under this Act would not be released by an order of discharge if the debtor had been adjudged bankrupt.

Limitation of effect of composition or scheme.

19. Notwithstanding the acceptance and approval of a composition or scheme, the composition or scheme shall not be binding on any creditor so far as regards a debt or liability from which, under the provisions of this Act, the debtor would not be discharged by an order of discharge in bankruptcy, unless the creditor assents to the composition or scheme.

Adjudication of Bankruptcy.

Adjudication of bankruptcy.

20. (1) At the time of making a receiving order, or at any time thereafter, the Court may, on the application of the debtor himself, adjudge him bankrupt. The application may be made orally and without notice.

(2) Where a receiving order is made against a debtor, then, if a composition or scheme is not accepted and approved in pursuance of this Act within fourteen days after the conclusion of the examination of the debtor or such further time as the Court may allow, the Court shall adjudge the debtor bankrupt.

(3) When a debtor is adjudged bankrupt, his property shall become divisible among his creditors and shall vest in the official assignee.

(4) Notice of every order adjudging a debtor bankrupt, stating the name, address and description of the bankrupt, the date of the adjudication and the Court by which the adjudication is made, shall be published in the prescribed manner, and the date of the order shall, for the purposes of this Act, be the date of the adjudication.

Power to accept composition or scheme after bankruptcy adjudication.

21. (1) Where a debtor is adjudged bankrupt, the creditors may, if they think fit, at any time after the adjudication, by special resolution, resolve to entertain a proposal for a composition in satisfaction of the debts due to them under the bankruptcy, or for a scheme of arrangement of the bankrupt's affairs; and thereupon the same proceedings shall be taken and the same consequences shall ensue as in the case of a composition or scheme accepted before adjudication.

(2) If the Court approves the composition or scheme, it may make an order annulling the bankruptcy and vesting the property of the bankrupt in him or in such other person as the Court may appoint, on such terms, and subject to such conditions, if any, as the Court may declare.

(3) If default is made in payment of any instalment due in pursuance of the composition or scheme, or if it appears to the Court that the composition or scheme cannot proceed without injustice or undue delay, or that the approval of the Court was obtained by fraud, the Court may, if it thinks fit, on application by any person interested, adjudge the debtor bankrupt, and annul the composition or scheme, but without prejudice to the validity of any sale, disposition or payment duly made, or thing duly done, under or in pursuance of the composition or scheme. Where a debtor is adjudged bankrupt under this sub-section, all debts, provable in other respects, which have been contracted before the date of such adjudication shall be provable in the bankruptcy.

Control over Person and Property of Debtor.

Duties of debtor as to discovery and realization of property.

22. (1) Every debtor against whom a receiving order is made shall, unless prevented by sickness or other sufficient cause, attend any meeting of his creditors which the official assignee may require him to attend, and shall submit to such examination and give such information as the meeting may require.

(2) He shall give such inventory of his property, such list of his creditors and debtors, and of the debts due to and from them respectively, submit to such examination in respect of his property or his creditors, wait at such times and places on the official assignee or special manager, execute such powers-of-attorney, conveyances, deeds and instruments, and generally do all such acts and things in relation to his property and the distribution of the proceeds amongst his creditors, as may be reasonably required by the official assignee or special manager or may be prescribed by general rules, or be directed by the Court by any special order or orders made in reference to any particular case, or made on the occasion of any special application by the official assignee or special manager, or any creditor or person interested.

(3) He shall, if adjudged bankrupt, aid, to the utmost of his power, in the realization of his property and the distribution of the proceeds among his creditors.

(4) If a debtor wilfully fails to perform the duties imposed on him by this section, or to deliver up possession of any part of his property which is divisible amongst his creditors under this Act, and which is for the time being in his possession or under his control, to the official assignee or to any person authorized by the Court to take possession of it, he shall, in addition to any other punishment to which he may be subject, be guilty of a contempt of Court, and may be punished accordingly.

Arrest of debtor under certain circumstances.

23. (1) The Court may, by warrant addressed to any police-officer or prescribed officer of the Court, cause a debtor to be arrested, and any books, papers, money and goods in his possession to be seized, and him and them to be safely kept as prescribed until such time as the Court may order, under the following circumstances :—

(*a*) if, after presentation of a bankruptcy petition by or against him, it appears to the Court that there is probable reason for believing that he has absconded or is about to abscond with a view of avoiding service of a bankruptcy petition or of avoiding appearance to any such petition, or of avoiding examination in respect of his affairs, or of otherwise avoiding, delaying or embarrassing proceedings in bankruptcy against him ;

(*b*) if, after presentation of a bankruptcy petition by or against him, it appears to the Court that there is probable reason for believing that he is about to remove his property with a view of preventing or delaying possession being taken of it by the official assignee, or that there is probable reason for believing that he has concealed or is about to conceal or destroy any of his property or any books, documents or writings which might be of use to his creditors in the course of his bankruptcy ;

(*c*) if, after service of a bankruptcy petition on him, or after a receiving order is made against him, he removes any pro-

perty in his possession above the value of fifty rupees without the leave of the official assignee ;

(*d*) if, without good cause shown, he fails to attend any examination ordered by the Court.

(2) No payment or composition made or security given after arrest made under this section shall be exempt from the provisions of this Act relating to fraudulent preferences.

Redirection of debtor's letters and telegrams.

24. Where a receiving order is made against a debtor, the Court, on the application of the official assignee, may, from time to time, order that for such time, not exceeding three months, as the Court thinks fit, post letters and telegrams addressed to the debtor at any place or places mentioned in the order for redirection shall be redirected, sent or delivered by the Postal and Telegraph authorities in British India to the official assignee, or otherwise as the Court directs ; and the same shall be done accordingly.

Discovery of debtor's property.

25. (1) The Court may, on the application of the official assignee, or of any creditor who has proved his debt, at any time after a receiving order has been made against a debtor, summon before it the debtor or any person known or suspected to have in his possession any property belonging to the debtor, or supposed to be indebted to the debtor, or any person whom the Court may deem capable of giving information respecting the debtor, his dealings or property ; and the Court may require any such person to produce any documents in his custody or power relating to the debtor, his dealings or property.

(2) If any person so summoned, after having been tendered a reasonable sum, refuses to come before the Court at the time appointed, or refuses to produce any such document, having no lawful impediment made known to the Court at the time of its sitting and allowed by it, the Court may, by warrant, cause him to be apprehended and brought up for examination.

(3) The Court may examine on oath, either by word of mouth or by written interrogatories, any person so brought before it concerning the debtor, his dealings or property.

(4) If on the examination of any such person it appears to the Court that he is indebted to the debtor, the Court may on the application of the official assignee, order him to pay to the official assignee, at such time and in such manner as to the Court seems expedient, the amount in which he is indebted, or any part thereof, either in full discharge of the whole amount or not, as the Court thinks fit, with or without costs of the examination.

(5) If on the examination of any such person it appears to the Court that he has in his possession any property belonging to the debtor, the Court may, on the application of the official assignee, order him to deliver to the official assignee that property, or any part thereof, at such time, in such manner and on such terms as to the Court may seem just.

Discharge of Bankrupt

Discharge of bankrupt.

26. (1) A bankrupt may, at any time after being adjudged bankrupt, apply to the Court for an order of discharge, and the Court shall appoint a day for hearing the application, but the application shall not be heard until the public examination of the bankrupt is concluded. The application shall be heard in open Court.

(2) On the hearing of the application, the Court shall take into consideration a report of the official assignee as to the bankrupt's conduct and affairs, and may either grant or refuse an absolute order of discharge, or suspend the operation of the order for a specified time, or grant an order of discharge subject to any conditions with respect to any earnings or income which may afterwards become due to the bankrupt, or with respect to his after-acquired property :

Provided that the Court shall refuse the discharge in all cases where the bankrupt has committed any offence under this Act, or under section 421, 422, 423, or 424 of the Indian Penal Code or any amendment thereof, and shall, on proof of any of the facts hereinafter mentioned, either refuse the order, or suspend the operation of the order for a specified time, or grant an order of discharge subject to such conditions as aforesaid.

(3) The facts hereinbefore referred to are—

(*a*) that the bankrupt, if a trader, has omitted to keep such books of account as are usual and proper in the business carried on by him and as sufficiently disclose his business transactions and financial position within the three years immediately preceding his bankruptcy, or within such shorter period immediately preceding that event as the Court may deem reasonable in the circumstances of the case ;

(*b*) that the bankrupt has continued to trade after knowing himself to be insolvent ;

(*c*) that the bankrupt has contracted any debt provable in the bankruptcy without having at the time of contracting it any reasonable or probable ground of expectation (proof whereof shall lie on him) of being able to pay it ;

(*d*) that the bankrupt has brought on his bankruptcy by rash and hazardous speculations or unjustifiable extravagance in living ;

(*e*) that the bankrupt has put any of his creditors to unnecessary expense by a frivolous or vexatious defence to any suit or other legal proceeding properly brought against him ;

(*f*) that the bankrupt has within three months preceding the date of the receiving order, when unable to pay his debts, as they become due, given an undue preference to any of his creditors ;

(*g*) that the bankrupt has on any previous occasion been adjudged bankrupt or made under any enactment in force in any part of Her Majesty's dominions a composition or arrangement with his creditors ;

(*h*) that the bankrupt has been guilty of any fraud or fraudulent breach of trust.

(4) For the purposes of this section the report of the official assignee shall be *primâ facie* evidence of the statements therein contained.

(5) Notice of the appointment by the Court of the day for hearing the application for discharge shall be published in the prescribed manner and sent one month at least before the day so appointed to each creditor who has proved, and the Court may hear the official assignee, and may also hear any creditor. At the hearing the Court may put such questions to the debtor and receive such evidence as it may think fit.

(6) The Court may, in making an order of discharge, pass a decree against the debtor in favor of the official assignee for any balance of the debts provable under the bankruptcy which is not satisfied at the date of his discharge ; but in that case

the decree shall not be executed without leave of the Court, which leave may be given on proof that the bankrupt has since his discharge acquired property or income available for payment of his debts.

(7) A discharged bankrupt shall, notwithstanding his discharge, give such assistance as the official assignee may require in the realization and distribution of such of his property as is vested in the official assignee, and if he fails to do so he shall be guilty of a contempt of Court; and the Court may also, if it thinks fit, revoke his discharge, but without prejudice to the validity of any sale, disposition or payment duly made or thing duly done subsequent to the discharge, but before its revocation.

(8) Where the Court refuses the discharge of the bankrupt, it may, after such time and in such circumstances as may be authorized by general rules, permit him to renew his application for an order of discharge.

Fraudulent settlements.

27. In either of the following cases, that is to say:—

(1) in the case of a settlement made before and in consideration of marriage where the settlor is not at the time of making the settlement able to pay all his debts without the aid of the property comprised in the settlement, or

(2) in the case of any covenant or contract made in consideration of marriage for the future settlement on or for the settlor's wife or children of any money or property wherein he had not at the date of his marriage any estate or interest (not being money or property of or in right of his wife),

if the settlor is adjudged bankrupt or compounds or arranges with his creditors, and it appears to the Court that the settlement, covenant or contract was made in order to defeat or delay creditors, or was unjustifiable having regard to the state of the settlor's affairs at the time when it was made, the Court may refuse or suspend an order of discharge or grant an order subject to conditions or refuse to approve a composition or arrangement, as the case may be, in like manner as in cases where the debtor has been guilty of fraud.

Effect or order of discharge.

28. (1) An order of discharge shall not release the bankrupt from any debt on a recognisance, or from any debt with which the bankrupt may be chargeable at the suit of the Crown or of any person for any offence against an enactment relating to any branch of the public revenue, or at the suit of the sheriff or other public officer on a bail-bond entered into for the appearance of any person prosecuted for any such offence; and the bankrupt shall not be discharged from these excepted debts unless the Government certifies in writing its consent to his being discharged therefrom.

(2) An order of discharge shall not release the bankrupt from any debt or liability incurred by means of any fraud or fradulent breach of trust to which he was a party, or from any debt or liability whereof he has obtained forbearance by any fraud to which he was a party.

(3) An order of discharge shall release the bankrupt from all other debts provable in bankruptcy.

(4) An order of discharge shall be conclusive evidence of the bankruptcy, and of the validity of the proceedings therein; and in any proceedings that may be instituted against a bankrupt who has obtained an order of discharge in respect of any debt from which he is released by the order, the bankrupt may plead that the cause of action occurred before his discharge, and may give this Act and the special matter in evidence.

(5) An order of discharge shall not release any person who at the date of the receiving order was a partner or co-trustee with the bankrupt or was jointly bound or had made any joint contract with him, or any person who was surety or in the nature of a surety for him.

PART II.

Disqualifications of Bankrupt.

Disqualifications of bankrupt.

29. (1) Where a debtor is adjudged bankrupt he shall, subject to the provisions of this section, be disqualified for—

(a) being appointed or acting as a Member of any Legislative Council constituted under the Indian Councils Act, 1861;

(b) being appointed or acting as a Justice of the Peace, Judge or Magistrate;

(c) being appointed or acting as a member of any local authority.

(2) The disqualifications to which a bankrupt is subject under this section shall be removed and cease if and when—

(a) the adjudication of bankruptcy against him is annulled; or

(b) he obtains from the Court his discharge with a certificate to the effect that his bankruptcy was caused by misfortune without any misconduct on his part.

The Court may grant or withhold the certificate as it thinks fit, but a refusal of the certificate shall be subject to appeal.

(3) If a person is adjudged bankrupt whilst holding the office of Member of a Legislative Council, Justice of the Peace, Judge, Magistrate or member of a local authority, his office shall thereupon become vacant.

PART III.

Administration of Property.

Proof of Debts.

Description of debts provable in bankruptcy.

30. (1) Demands in the nature of unliquidated damages arising otherwise than by reason of a contract, promise or breach of trust shall not be provable in bankruptcy.

(2) A person having notice of any act of bankruptcy available against the debtor shall not prove under the receiving order for any debt or liability contracted by the debtor subsequently to the date of his so having notice.

(3) Save as aforesaid, all debts and liabilities, present or future, certain or contingent, to which the debtor is subject at the date of the receiving order, or to which he may become subject before his discharge by reason of any obligation incurred before the date of the receiving order, shall be deemed to be debts provable in bankruptcy.

(4) An estimate shall be made by the official assignee of the value of any debt or liability provable as aforesaid which by reason of its being subject to any contingency or contingencies, or for any other reason, does not bear a certain value.

(5) Any person aggrieved by any estimate made by the official assignee as aforesaid may appeal to the Court.

(6) If, in the opinion of the Court, the value of the debt or liability is incapable of being fairly

estimated, the Court may make an order to that effect, and thereupon the debt or liability shall, for the purposes of this Act, be deemed to be a debt not provable in bankruptcy.

(7) If, in the opinion of the Court, the value of the debt or liability is capable of being fairly estimated, the Court may direct the value to be assessed before the Court itself, and may give all necessary directions for this purpose, and the amount of the value when assessed shall be deemed to be a debt provable in bankruptcy.

(8) "Liability" shall for the purposes of this Act include any compensation for work or labor done, and any obligation or possibility of an obligation to pay money or money's worth on the breach of any express or implied covenant, contract, agreement or undertaking, whether the breach does or does not occur, or is or is not likely to occur or capable of occurring before the discharge of the debtor, and generally it shall include any express or implied engagement, agreement or undertaking to pay, or capable of resulting in the payment of, money, or money's worth, whether the payment is, as respects amount, fixed or unliquidated; as respects time, present or future, certain or dependent on any one contingency or on two or more contingencies; as to mode of valuation, capable of being ascertained by fixed rules, or as matter of opinion.

Mutual credit and set-off.

31. Where there have been mutual credits, mutual debts or other mutual dealings between a debtor against whom a receiving order is made under this Act and any other person proving or claiming to prove a debt under the receiving order, an account shall be taken by, or under the orders of, the Court of what is due from the one party to the other in respect of those mutual dealings, and the sum due from the one party shall be set off against any sum due from the other party, and the balance of the account, and no more, shall be claimed or paid, on either side respectively; but a person shall not be entitled under this section to claim the benefit of any set-off against the property of a debtor in any case where he had at the time of giving credit to the debtor notice of an act of bankruptcy committed by the debtor and available against him.

Rules as to proof of debts.

32. With respect to the mode of proving debts, the right of proof by secured and other creditors, the admission and rejection of proofs, and the other matters referred to in the second schedule, the rules in that schedule shall be observed.

Priority of debts.

33. (1) In the distribution of the property of a bankrupt there shall be paid in priority to all other debts—

(*a*) all revenue, taxes, cesses and rates, whether payable to Her Majesty, to any local authority or otherwise, due from the bankrupt at the date of the receiving order, and having become due and payable within twelve months next before that date;

(*b*) all wages or salary of any clerk or servant in respect of services rendered to the bankrupt during four months before the date of the receiving order, not exceeding five hundred rupees for each clerk or servant; and

(*c*) all wages of any laborer or workman, not exceeding five hundred rupees for each, whether payable for time or piece-work, in respect of services rendered to the bankrupt during four months before the date of the receiving order.

(2) The foregoing debts shall rank equally among themselves, and shall be paid in full, unless the property of the bankrupt is insufficient to meet them, in which case they shall abate in equal proportions among themselves.

(3) In the case of partners the joint estate shall be applicable in the first instance in payment of their joint debts, and the separate estate of each partner shall be applicable in the first instance in payment of his separate debts. If there is a surplus of the separate estates, it shall be dealt with as part of the joint estate. If there is a surplus of the joint estate, it shall be dealt with as part of the respective separate estates in proportion to the right and interest of each partner in the joint estate.

(4) Subject to the provisions of this Act, all debts proved in the bankruptcy shall be paid *pari passu*.

(5) If there is any surplus after payment of the foregoing debts, it shall be applied in payment of interest from the date of the receiving order at the rate of six per centum per annum on all debts proved in the bankruptcy.

Preferential claim in case of apprenticeship.

34. (1) Where at the time of the presentation of the bankruptcy petition any person is apprenticed or is an articled clerk to the bankrupt, the adjudication of bankruptcy shall, if either the bankrupt or the apprentice or clerk gives notice in writing to the official assignee to that effect, be a complete discharge of the contract of apprenticeship or articles of agreement; and, if any money has been paid by or on behalf of the apprentice or clerk to the bankrupt as a fee, the official assignee may, on the application of the apprentice or clerk, or of some person on his behalf, pay such sum as the official assignee, subject to an appeal to the Court, thinks reasonable, out of the bankrupt's property to or for the use of the apprentice or clerk, regard being had to the amount paid by him or on his behalf, and to the time during which he served with the bankrupt under the contract or articles before the commencement of the bankruptcy, and to the other circumstances of the case.

(2) Where it appears expedient to the official assignee, he may, on the application of any apprentice or articled clerk to the bankrupt, or any person acting on behalf of the apprentice or articled clerk, instead of acting under the preceding provisions of this section, transfer the contract of apprenticeship or articles of agreement to some other person.

Power to landlord to distrain for rent.

35. (1) The landlord or other person to whom any rent is due from the bankrupt may, at any time, either before or after the commencement of the bankruptcy, exercise his right of distraint (if any) upon the property of the bankrupt for the rent due to him from the bankrupt, with this limitation, that if the distress for rent be levied after the commencement of the bankruptcy it shall be available only for three months' rent accrued due prior to the date of the order of adjudication, but the landlord or other person to whom the rent may be due from the bankrupt may prove under the bankruptcy for the surplus due for which the distress may not have been available.

(2) For the purposes of this section the term "order of adjudication" shall be deemed to include an order for the administration of the estate of a deceased person who dies insolvent.

Property available for Payment of Debts.

Relation back of assignee's title.

36. The bankruptcy of a debtor, whether the same takes place on the debtor's own petition or upon that of a creditor or creditors, shall be deemed to have relation back to, and to

commence at, the time of the act of bankruptcy being committed on which a receiving order is made against him, or, if the bankrupt is proved to have committed more acts of bankruptcy than one, to have relation back to, and to commence at, the time of the first of the acts of bankruptcy proved to have been committed by the bankrupt within three months next preceding the date of the presentation of the bankruptcy petition; but a bankruptcy petition receiving order or adjudication shall not be rendered invalid by reason of any act of bankruptcy anterior to the debt of the petitioning creditor.

Description of bankrupt's property divisible amongst creditors.

37. The property of the bankrupt divisible amongst his creditors, and in this Act referred to as the property of the bankrupt, shall not comprise the following particulars:—

(1) property held by the bankrupt on trust for any other person;

(2) the tools (if any) of his trade and the necessary wearing-apparel, bedding and other such necessaries of himself, his wife and children, to a value, inclusive of tools and apparel and the other things aforesaid, not exceeding two hundred rupees in the whole:

But it shall comprise the following particulars:—

(3) all such property as may belong to or be vested in the bankrupt at the commencement of the bankruptcy or may be acquired by or devolve on him before his discharge;

(4) the capacity to exercise and to take proceedings for exercising all such powers in or over or in respect of property as might have been exercised by the bankrupt for his own benefit at the commencement of his bankruptcy or before his discharge; and

(5) all moveable property being, at the commencement of the bankruptcy, in the possession, order or disposition of the bankrupt, in his trade or business, by the consent and permission of the true owner, under such circumstances that he is the reputed owner thereof: Provided that things in action, other than debts due or growing due to the bankrupt in the course of his trade or business, shall not be deemed moveable property within the meaning of this section.

Effect of Bankruptcy on antecedent Transactions.

Restriction of rights of creditor under execution.

38. (1) Where execution of a decree has issued against the property of a debtor, no person shall be entitled to the benefit of the execution against the official assignee, except in respect of assets realized in the course of the execution by sale or otherwise before the date of the receiving order, and before notice of the presentation of any bankruptcy petition by or against the debtor, or of the commission of any available act of bankruptcy by the debtor, has been given to the Court executing the decree.

(2) Nothing in this section shall affect the rights of a mortgagee or incumbrancer of property against which a decree is executed.

Duties of Court executing decree as to goods taken in execution.

39. (1) Where execution of a decree has issued against any property of a debtor which is saleable in execution, and before the sale thereof notice is given to the Court executing the decree that a receiving order has been made against the debtor, the Court shall, on application, direct the property to be delivered to the official assignee, but the costs of the execution shall be a charge on the property so delivered, and the official assignee may sell the property or an adequate part thereof for the purpose of satisfying the charge.

(2) A person who in good faith purchases the property of a debtor under a sale in execution shall in all cases acquire a good title to it against the official assignee.

Avoidance of voluntary settlements.

40. (1) Any settlement of property not being a settlement made before and in consideration of marriage, or made in favor of a purchaser or incumbrancer in good faith and for valuable consideration, or a settlement made on or for the wife or children of the settlor of property which has accrued to the settlor after marriage in right of his wife, shall, if the settlor becomes bankrupt within two years after the date of the settlement, be void against the official assignee, and shall if the settlor becomes bankrupt at any subsequent time within ten years after the date of the settlement, be void against the official assignee unless the parties claiming under the settlement can prove that the settlor was at the time of making the settlement able to pay all his debts without the aid of the property comprised in the settlement and that the interest of the settlor in the property had passed to the trustee of the settlement on the execution thereof.

(2) Any covenant or contract made in consideration of marriage, for the future settlement on or for the settlor's wife or children of any money or property wherein he had not at the date of his marriage any estate or interest, whether vested or contingent in possession or remainder, and not being money or property of or in right of his wife, shall, on his becoming bankrupt before the money or property has been actually paid or transferred pursuant to the covenant or contract, be void against the official assignee.

(3) "Settlement" shall for the purposes of this section include any conveyance or transfer of property.

Avoidance of preferences in certain cases.

41. (1) Every conveyance or transfer of property, or charge thereon made, every payment made, every obligation incurred, and every judicial proceeding taken or suffered by any person unable to pay his debts as they become due from his own money in favor of any creditor, or any person in trust for any creditor, with a view of giving that creditor a preference over the other creditors, shall, if the person making, taking, paying or suffering the same is adjudged bankrupt on a bankruptcy petition presented within three months after the date of making, taking, paying or suffering the same, be deemed fraudulent and void as against the official assignee.

(2) This section shall not affect the rights of any person making title in good faith and for valuable consideration through or under a creditor of the bankrupt.

Protection of *bonâ fide* transactions without notice.

42. Subject to the foregoing provisions of this Act with respect to the effect of bankruptcy on an execution and with respect to the avoidance of certain settlements and preferences, nothing in this Act shall invalidate in the case of a bankruptcy—

(*a*) any payment of the bankrupt to any of his creditors,

(*b*) any payment or delivery to the bankrupt,

(c) any conveyance or assignment by the bankrupt for valuable consideration, or

(d) any contract, dealing or transaction by or with the bankrupt for valuable consideration:

Provided that both the following conditions are complied with, namely:—

(1) the payment, delivery, conveyance, assignment, contract, dealing or transaction, as the case may be, takes place before the date of the receiving order; and

(2) the person (other than the debtor) to, by or with whom the payment, delivery, conveyance, assignment, contract, dealing or transaction was made, executed or entered into, has not at the time of the payment, delivery, conveyance, assignment, contract, dealing or transaction, notice of any available act of bankruptcy committed by the bankrupt before that time.

Realization of Property.

Possession of property by assignee.

43. (1) The official assignee shall, as soon as may be, take possession of the deeds, books and documents of the bankrupt, and all other parts of his property capable of manual delivery.

(2) The official assignee shall, in relation to and for the purpose of acquiring or retaining possession of the property of the bankrupt, be in the same position as if he were a receiver of the property appointed under section 503 of the Code of Civil Procedure, and shall have such of the powers conferable on a receiver under that section as may be prescribed; and the Court may on his application enforce such acquisition or retention accordingly.

(3) Where any part of the property of the bankrupt consists of stock, shares in ships, shares or any other property transferable in the books of any company, office or person, the official assignee may exercise the right to transfer the property to the same extent as the bankrupt might have exercised it if he had not become bankrupt.

(4) Where any part of the property of the bankrupt consists of things in action, those things shall be deemed to have been duly assigned to the official assignee.

(5) Any treasurer or other officer, or any banker, attorney or agent of a bankrupt, shall pay and deliver to the official assignee all money and securities in his possession or power, as such officer, banker, attorney or agent, which he is not by law entitled to retain as against the bankrupt or the official assignee. If he does not, he shall be guilty of a contempt of Court, and may be punished accordingly on the application of the official assignee.

Seizure of property of bankrupt.

44. Any person acting under warrant of the Court may seize any part of the property of a bankrupt in the custody or possession of the bankrupt or of any other person, and with a view to the seizure thereof may break open any house, building or room of the bankrupt where the bankrupt is supposed to be, or any building or receptacle of the bankrupt where any of his property is supposed to be; and, where the Court is satisfied that there is reason to believe that property of the bankrupt is concealed in a house or place not belonging to him, the Court may, if it thinks fit, grant a search-warrant to any police-officer or officer of the Court, who may execute it according to its tenor.

Appropriation of portion of pay or other income to creditors.

45. (1) Where a bankrupt is an officer of the army or navy or of Her Majesty's Indian marine service, or an officer or clerk or otherwise employed or engaged in the civil service of the Crown, the official assignee shall receive for distribution amongst the creditors so much of the bankrupt's pay or salary as, subject to the provisions of section 266 of the Code of Civil Procedure, the Court, on the application of the official assignee, may, by order under section 268 of that direct.

(2) Where a bankrupt is in the receipt of a salary or income other than as aforesaid, the Court, on the application of the official assignee, shall from time to time, subject to the provisions of section 266 of the said Code and of the Pensions Act, 1871, make such order as it thinks just for the payment of the salary or income, or of any part thereof, to the official assignee, to be applied by him in such manner as the Court may direct.

(3) Nothing in this section shall take away or abridge any power of the chief officer of any public department to dismiss a bankrupt.

Vesting and transfer of property.

46. The property of a debtor who has been adjudged bankrupt shall pass from official assignee to official assignee, and shall vest in the official assignee for the time being during his continuance in office, without any conveyance, assignment or transfer whatever.

Disclaimer of onerous property.

47. (1) Where any part of the property of the bankrupt consists of any tenancy burdened with onerous covenants, of shares or stock in companies, of unprofitable contracts, or of any other property that is unsaleable, or not readily saleable, by reason of its binding the possessor thereof to the performance of any onerous act, or to the payment of any sum of money, the official assignee, notwithstanding that he has endeavoured to sell or has taken possession of the property, or exercised any act of ownership in relation thereto, but subject to the provisions of this section, may, by writing signed by him, at any time within three months after the adjudication of bankruptcy, disclaim the property:

Provided that, where any such property has not come to the knowledge of the official assignee within one month after the adjudication, he may disclaim the property at any time within two months after he first became aware thereof.

(2) The disclaimer shall operate to determine, as from the date of disclaimer, the rights, interests, and liabilities of the bankrupt and his property in or in respect of the property disclaimed, and shall also discharge the official assignee from all personal liability in respect of the property disclaimed as from the date when the property vested in him, but shall not, except so far as is necessary for the purpose of releasing the bankrupt and his property and the official assignee from liability, affect the rights or liabilities of any other person.

(3) The official assignee shall not be entitled to disclaim a tenancy without the leave of the Court, except in any cases which may be prescribed by general rules; and the Court may, before or on granting the leave, require such notices to be given to persons interested, and impose such terms as a condition of granting leave, and make such orders with respect to fixtures, tenant's improvements and other matters arising out of the tenancy, as the Court thinks just.

(4) The official assignee shall not be entitled to disclaim any property in pursuance of this section in any case where an application in writing has been made to him by any person interested in

the property requiring him to decide whether he will disclaim or not, and he has for a period of twenty-eight days after the receipt of the application, or such extended period as may be allowed by the Court, declined or neglected to give notice whether he disclaims the property or not; and, in the case of a contract, if the official assignee, after such application as aforesaid, does not within the said period or extended period disclaim the contract, he shall be deemed to have adopted it.

(5) The Court may, on the application of any person who is, as against the official assignee, entitled to the benefit or subject to the burden of a contract made with the bankrupt, make an order rescinding the contract on such terms as to payment by or to either party of damages for the non-performance of the contract, or otherwise, as to the Court may seem equitable; and any damages payable under the order to any such person may be proved by him as a debt under the bankruptcy.

(6) The Court may, on application by any person either claiming any interest in any disclaimed property, or being under any liability not discharged by this Act in respect of any disclaimed property, and on hearing such persons as it thinks fit, make an order for the vesting of the property in or delivery thereof to any person entitled thereto, or to whom it may seem just that the same should be delivered by way of compensation for such liability as aforesaid, or a trustee for him, and on such terms as the Court thinks just; and, on any such vesting order being made, the property comprised therein shall vest accordingly in the person therein named in that behalf without any conveyance or assignment for the purpose:

Provided always that, where the property disclaimed is a tenancy, the Court shall not make a vesting order in favor of any person claiming under the bankrupt, whether as under-tenant or as mortgagee by demise, except upon the terms of making that person subject to the same liabilities and obligations as the bankrupt was subject to under the tenancy in respect to the property at the date when the bankruptcy petition was filed, and any under-tenant or mortgagee declining to accept a vesting order upon these terms shall be excluded from all interest in and security upon the property; and if there is no person claiming under the bankrupt who is willing to accept an order upon these terms, the Court shall have power to vest the bankrupt's estate and interest in the property in any person bound either personally or in a representative character, and either alone or jointly with the bankrupt, to discharge the tenant's liabilities and obligations, freed and discharged from all estates, incumbrances and interests created therein by the bankrupt.

(7) Any person injured by the operation of a disclaimer under this section shall be deemed to be a creditor of the bankrupt to the extent of the injury, and may accordingly prove the same as a debt under the bankruptcy.

Powers of assignee as to dealing with property.

48. (1) Subject to the provisions of this Act, the official assignee may do all or any of the following things:—

(*a*) sell all or any part of the property of the bankrupt (including the goodwill of his business, if any, and the book debts due or growing due to him) by public auction or private contract, with power to transfer the whole thereof to any person or company, or to sell the same in parcels;

(*b*) give receipts for any money received by him, which receipts shall effectually discharge the person paying the money from all responsibility in respect of the application thereof;

(*c*) prove, rank, claim, and draw a dividend in respect of any debt due to the bankrupt;

(*d*) exercise any powers the capacity to exercise which is vested in the official assignee under this Act, and execute any powers-of-attorney, deeds and other instruments for the purpose of carrying into effect the provisions of this Act;

(*e*) deal with any property to which the bankrupt is beneficially entitled as tenant in tail or other owner of an estate of inheritance less than an estate in fee simple in the same manner as the bankrupt might have dealt with it.

(2) Any dealing by an official assignee under clause (*e*) of sub-section (1) with any property to which the bankrupt is before his discharge entitled as in that clause mentioned shall, although the bankrupt be dead at the time of that dealing, be as valid and have the same operation as if the bankrupt were then alive.

Powers exerciseable by assignee subject to orders of Court.

49. The official assignee may, subject to any general or special orders of the Court, do all or any of the following things:—

(1) carry on the business of the bankrupt, so far as may be necessary for the beneficial winding up of the same;

(2) bring, institute or defend any suit or other legal proceeding relating to the property of the bankrupt;

(3) employ a legal practitioner or other agent to take any proceedings or do any business;

(4) accept as the consideration for the sale of any property of the bankrupt a sum of money payable at a future time subject to such stipulations as to security and otherwise as he thinks fit;

(5) mortgage or pledge any part of the property of the bankrupt for the purpose of raising money for the payment of his debts;

(6) refer any dispute to arbitration, and compromise all debts, claims and liabilities, whether present or future, certain or contingent, liquidated or unliquidated, subsisting or supposed to subsist between the bankrupt and any person who may have incurred any liability to the bankrupt, on the receipt of such sums, payable at such times, and generally on such terms as may be agreed on;

(7) make such compromise or other arrangement as may be thought expedient with creditors, or persons claiming to be creditors, in respect of any debts provable under the bankruptcy.

(8) make such compromise or other arrangement as may be thought expedient with respect to any claim arising out of or incidental to the property of the bankrupt, made or capable of being made on the official assignee by any person or by the official assignee on any person;

(9) divide in its existing form amongst the creditors, according to its estimated value, any property which from its peculiar nature or other special circumstances cannot be readily or advantageously sold.

Distribution of Property.

Declaration and distribution of dividends.

50. (1) Subject to the retention of such sums as may be necessary for the costs of administration or otherwise, the official assignee shall, with all convenient

speed, declare and distribute dividends amongst the creditors who have proved their debts.

(2) The first dividend, if any, shall be declared and be payable within six months after the adjudication, unless the official assignee satisfies the Court that there is sufficient reason for postponing the declaration to a later date.

(3) Subsquent dividends shall, in the absence of sufficient reason to the contrary, be declared and be payable at intervals of not more than six months.

(4) Before declaring a dividend, the official assignee shall cause notice of his intention to do so to be published in the prescribed manner, and shall also send reasonable notice thereof to each creditor mentioned in the bankrupt's statement who has not proved his debt.

(5) When the official assignee has declared a dividend, he shall send to each creditor who has proved a notice showing the amount of the dividend and when and how it is payable, and a statement in the prescribed form as to the particulars of the estate.

Joint and separate dividends.

51. (1) Where one partner of a firm is adjudged bankrupt, a creditor to whom the bankrupt is indebted jointly with the other partners of the firm, or any of them, shall not receive any dividend out of the separate property of the bankrupt until all the separate creditors have received the full amount of their respective debts.

(2) Where joint and separate properties are being administered, dividends of the joint and separate properties shall, subject to any order to the contrary that may be made by the Court on the application of the official assignee or any person interested, be declared together; and the expenses of and incident to those dividends shall be fairly apportioned by the official assignee between the joint and separate properties, regard being had to the work done for and to the benefit received by each property.

Provision for creditors residing at a distance, &c.

52. In the calculation and distribution of a dividend, the official assignee shall make provision for debts provable in bankruptcy appearing from the bankrupt's statements, or otherwise, to be due to persons resident in places so distant from the place where the official assignee is acting that in the ordinary course of communication they have not had sufficient time to tender their proofs, or to establish them if disputed, and also for debts provable in bankruptcy the subject of claims not yet determined. He shall also make provision for any disputed proofs or claims, and for the expenses necessary for the administration of the estate or otherwise, and, subject to the foregoing provisions, he shall distribute as dividend all money in hand.

Right of creditor who has not proved debt before declaration of a dividend.

53. Any creditor who has not proved his debt before the declaration of any dividend or dividends shall be entitled to be paid out of any money for the time being in the hands of the official assignee any dividend or dividends he may have failed to receive before that money is applied to the payment of any future dividend or dividends, but he shall not be entitled to disturb the distribution of any dividend declared before his debt was proved by reason that he has not participated therein.

Final dividend.

54. When the official assignee has realized all the property of the bankrupt, or so much thereof as can, in his opinion, be realized without needlessly protracting the proceedings in bankruptcy, he shall, with the leave of the Court, declare a final dividend; but before so doing he shall give notice in manner prescribed to the persons whose claims to be creditors have been notified to him, but not established to his satisfaction, that if they do not establish their claims to the satisfaction of the Court within a time limited by the notice, he will proceed to make a final dividend without regard to their claims. After the expiration of the time so limited, or, if the Court on application by any such claimant grants him further time for establishing his claim, then on the expiration of that further time, the property of the bankrupt shall be divided among the creditors who have proved their debts, without regard to the claims of any other persons.

No suit for dividend.

55. No suit for a dividend shall lie against the official assignee, but if the official assignee refuses to pay any dividend, the Court may, if it thinks fit, order him to pay it, and also to pay out of his own money interest thereon for the time that it is withheld, and the costs of the application.

Power to allow bankrupt to manage property, and allowance to bankrupt for maintenance or service.

56. (1) The official assignee may appoint the bankrupt himself to superintend the management of the property of the bankrupt or of any part thereof, or to carry on the trade (if any) of the bankrupt for the benefit of his creditors, and in any other respect to aid in administering the property in such manner and on such terms as the official assignee may direct.

(2) The official assignee may, from time to time, make such allowance as he thinks just to the bankrupt out of his property for the support of the bankrupt and his family, or in consideration of his services if he is engaged in winding up his estate, but the Court may reduce any such allowance and limit the time for which it may be made.

Right of bankrupt to surplus.

57. The bankrupt shall be entitled to any surplus remaining after payment in full of his creditors, with interest, as by this Act provided, and of the costs, charges, and expenses of the proceedings under the bankruptcy petition.

PART IV.

OFFICIAL ASSIGNEES.

Appointment and Removal.

Appointment and removal of official assignees of debtors' estates.

58. (1) The Chief Justice of each of the High Courts of Judicature at Fort William, Madras, and Bombay may from time to time appoint such person as he thinks fit to the office of official assignee of debtors' estates for that Court, and may, with the concurrence of a majority of the other Judges of the Court, remove the person for the time being holding that office for any of the following causes, namely, unwillingness to act, removal from out of the jurisdiction of the Court, incapacity or misconduct.

(2) The Local Government may in like manner appoint such person as it thinks fit to the office of official assignee of debtors' estates for any other Court having bankruptcy jurisdiction under this Act, and may remove the person for the time being holding that office.

(3) Notwithstanding anything in sub-sections (1) and (2), the persons substantively or temporarily holding the office of official assignee immediately before the commencement of this Act in the

Courts for the Relief of Insolvent Debtors at Calcutta, Madras, and Bombay under the 11 & 12 Vic., cap. 21 (*an Act to consolidate and amend the Laws relating to Insolvent Debtors in India*), and in the Court of the Recorder of Rangoon under that statute as applied by the Burma Courts Act, 1875, shall, without further appointment for that purpose, become the official assignees, substantive or temporary, as the case may be, under this Act in the High Courts at Fort William, Madras, and Bombay and in the Court of the Recorder of Rangoon, respectively.

Duties.

Functions of official assignee.

59. (1) The duties of an official assignee shall have relation both to the conduct of the debtor and to the administration of his estate.

(2) An official assignee may, for the purpose of affidavits verifying proofs, petitions or other proceedings under this Act, administer oaths.

Duties of official assignee as regards the debtor's conduct.

60. As regards the debtor, it shall be the duty of the official assignee—

(1) to investigate the conduct of the debtor and to report to the Court, stating whether there is reason to believe that the debtor has committed any act which constitutes an offence under this Act or under section 421, 422, 423 or 424 of the Indian Penal Code or any amendment thereof, or which would justify the Court in refusing, suspending or qualifying an order for his discharge;

(2) to make such other reports concerning the conduct of the debtor as the Court may direct or as may be prescribed;

(3) to take such part as may be directed by the Court in the public examination of the debtor; and

(4) to take such part and give such assistance in relation to the prosecution of any fraudulent debtor as the Court may direct or as may be prescribed.

Duties of official assignee as to debtor's estate.

61. (1) As regards the estate of a debtor, it shall be the duty of the official assignee—

(*a*) where a special assignee has not been appointed, to act as receiver of the debtor's estate, and, where a special manager has not been appointed, as manager thereof;

(*b*) to authorize the special manager to raise money or make advances for the purposes of the estate in any case where, in the interests of the creditors, it appears necessary so to do;

(*c*) to summon and preside at the meeting mentioned in section 17;

(*d*) to report to the creditors as to any proposal which the debtor has made with respect to the mode of liquidating his affairs;

(*e*) to advertise the receiving order, the date of the debtor's public examination, and such other matters as it may be necessary to advertise.

(2) For the purpose of his duties as interim receiver or manager, the official assignee shall have such of the powers conferable on a receiver appointed under section 503 of the Code of Civil Procedure as may be prescribed.

(3) The official assignee shall account to the Court and pay over all moneys and deal with all securities in such manner as, subject to the provision of this Act, the Court, from time to time, directs.

Remuneration.

Remuneration of official assignee.

62. (1) The remuneration to be paid to the official assignee shall be fixed by general rules.

(2) The rules shall express what expenses the remuneration is to cover, and no liability shall attach to the bankrupt's estate, or to the creditors, in respect of any expenses which the remuneration is expressed to cover.

(3) No remuneration whatever beyond that referred to in sub-section (1) shall be received by an official assignee as such.

Costs.

Allowance and taxation of costs.

63. (1) No payment shall be allowed in the accounts of the official assignee or manager in respect of the performance by any other person of the ordinary duties which are required by this Act or the rules made under this Act to be performed by himself.

(2) All bills and charges of legal practitioners, managers, accountants, auctioneers, brokers, and other persons shall be taxed by the prescribed officer, and no payments in respect thereof shall be allowed in the accounts of the official assignee without leave of the Court given after the bills and charges have been taxed.

(3) Every such person shall, on request by the official assignee (which request the official assignee shall make a sufficient time before declaring a dividend), deliver his bill of costs or charges to the prescribed officer, and if he fails to do so within seven days after receipt of the request, or such further time as the Court, on application, may grant, the official assignee shall declare and distribute the dividend without regard to any claim by him, and thereupon any such claim shall be forfeited as well against the official assignee personally as against the estate.

Receipts, Payments, Accounts, and Audit.

Bankruptcy Estates and Dividends Accounts.

64. (1) Two accounts, called respectively the Bankruptcy Estates Account and the Bankruptcy Dividends Account, shall be kept by the Court with such Government treasury, and in accordance with such rules, as the Governor-General in Council may from time to time prescribe.

(2) Subject to those rules, the Bankruptcy Estates Account shall be an account of money held by the Court for estates in bankruptcy, and the Bankruptcy Dividends Account shall be an account of declared dividends remaining unclaimed or undistributed.

(3) The said accounts shall be opened as soon as may be after the passing of this Act.

(4) The official assignee shall, in such manner and at such times as the Court, with the sanction of the Governor-General in Council, directs, pay the money received by him on account of estates in bankruptcy into the Court for credit to the Bankruptcy Estates Account, and the Court shall furnish him with a certificate of receipt of the money so paid.

(5) If an official assignee at any time retains for more than ten days a sum exceeding five hundred rupees, or such other sum as the Court in any particular case authorizes him to retain, then, unless he explains the retention to the satisfaction of the Court, he shall pay interest on the amount so retained in excess at the rate of twenty per centum per annum, and shall be liable to pay any expenses occasioned by reason of his default, and to submit to such other consequences as may be prescribed.

(6) All payments out of money standing to the credit of the Bankruptcy Estates Account or the Bankruptcy Dividends Account shall be made by the treasury in the prescribed manner on the order of the prescribed officer.

Assignee not to pay into private account.

65. An official assignee shall not pay any sums received by him as official assignee into his private banking account.

Investment of surplus funds.

66. (1) Whenever the balance standing to the credit of an estate in the Bankruptcy Estates Account exceeds ten thousand rupees, the Court may order such part thereof as is not required for the time being to answer demands in respect of the estate, or for transfer to the Bankruptcy Dividends Account in respect of dividends declared, to be invested in Government securities.

(2) When the Court has made an order under sub-section (1), it shall notify the order to such officer as the Governor-General in Council may appoint in this behalf, and pay over to the officer the sum which it has ordered to be invested or any part thereof as the officer may require, and the officer may invest the said sum or part thereof in Government securities to be placed to the credit of the estate.

(3) Whenever any part of the money so invested is, in the opinion of the Court, required to answer any demands in respect of the estate or for transfer to the Bankruptcy Dividends Account, the Court shall notify to the officer the amount so required and the officer shall thereupon repay to the Court such sum as may be required to the credit of the estate, and for that purpose may direct the sale of such part of the said securities as may be necessary.

(4) Interest on investments under this section shall be paid to the Bankruptcy Estates Account to the credit of the estate.

Audit of assignee's accounts.

67. (1) Every official assignee shall, at such times as may be prescribed, but not less than twice in each year during his tenure of office, submit to the Court, or as it directs, an account of his receipts and payments as such official assignee.

(2) The account shall be in a prescribed form, shall be made in duplicate, and shall be verified by a declaration in the prescribed form.

(3) The Court shall cause the accounts so submitted to be audited, by such officer as the Governor-General in Council may appoint in this behalf, and for the purposes of the audit the official assignee shall furnish the officer with such vouchers and information as the officer may require, and the officer may at any time require the production of and inspect any books or accounts kept by the official assignee.

(4) When any such account has been audited, a copy thereof shall be filed in the Court, and shall be open to the inspection of any creditor, or of the bankrupt, or of any person interested.

Assignee to furnish list of creditors.

68. The official assignee shall, whenever required by any creditor so to do, and on payment by the creditor of the prescribed fee, furnish and transmit to the creditor by post a list of the creditors, showing in the list the amount of the debt due to each of the creditors.

Books to be kept by assignee.

69. The official assignee shall keep, in manner prescribed, proper books, in which he shall from time to time cause to be made entries or minutes of proceedings at meetings, and of such other matters as may be prescribed; and any creditor of the bankrupt may, subject to the control of the Court, personally or by his agent, inspect any such books.

Periodical statement of proceedings.

70. (1) Every official assignee shall, from time to time, as may be prescribed, and not less than once in every year, during the continuance of the bankruptcy, submit to the Court a statement showing the proceedings in the bankruptcy up to the date of the statement, containing the prescribed particulars, and made out in the prescribed form.

(2) The Court shall cause the statement so submitted to be examined, and shall call the official assignee to account for any misfeasance, neglect or omission which may appear on the statement or in his accounts or otherwise, and may require the official assignee to make good any loss which the estate of the bankrupt may have sustained by reason of the misfeasance, neglect or omission.

Release.

Release of assignee.

71. (1) When the official assignee has realized all the property of the bankrupt, or so much thereof as can, in his opinion, be realized without needlessly protracting the proceedings in bankruptcy, and distributed a final dividend, if any, or has ceased to act by reason of a composition having been approved, or has resigned, or has vacated or been removed from his office, the Court shall, on his application, cause a report on his accounts to be prepared, and, on his complying with all the requirements of the Court, shall take into consideration the report, and any objection which may be urged by any creditor or person interested against the release of the official assignee, and shall either grant or withhold the release accordingly.

(2) Where the release of an official assignee is withheld, the Court may, on the application of any creditor or person interested, make such order as it thinks just, charging the official assignee with the consequences of any act or default which he may have done or made contrary to his duty.

(3) An order of the Court releasing the official assignee shall discharge him from all liability in respect of any act done or default made by him in the administration of the affairs of the bankrupt, or otherwise in relation to his conduct as official assignee, but any such order may be revoked on proof that it was obtained by fraud or by suppression or concealment of any material fact.

Official Name.

Name of assignee.

72. The official assignee may sue and be sued by the name of "the official assignee of the property of , a bankrupt," inserting the name of the bankrupt, and by that name may hold property of every description, make contracts, enter into any engagements binding on himself and his successors in office, and do all other acts necessary or expedient to be done in the execution of his office.

Vacation of Office on Insolvency.

Office of assignee vacated by insolvency.

73. If a receiving order is made against an official assignee, he shall thereby vacate the office of official assignee.

Control.

Discretionary powers of assignee and control thereof.

74. (1) Subject to the provisions of this Act, the official assignee shall, in the administration of the property of the bankrupt and in the distribution thereof

amongst his creditors, have regard to any directions that may be given by any resolution of the creditors at a meeting.

(2) The official assignee may, from time to time, summon meetings of the creditors for the purpose of ascertaining their wishes, and it shall be his duty to summon meetings at such times as the creditors, by resolution at any meeting, or the Court may direct, or whenever requested in writing to do so by one-fourth in value of the creditors.

(3) The official assignee may apply to the Court in manner prescribed for directions in relation to any particular matter arising under the bankruptcy.

(4) Subject to the provisions of this Act, the official assignee shall use his own discretion in the management of the estate and its distribution among the creditors.

Appeal to Court against assignee.

75. If the bankrupt or any of the creditors, or any other person, is aggrieved by any act or decision of the official assignee, he may apply to the Court, and the Court may confirm, reverse or modify the act or decision complained of, and make such order in the premises as it thinks just.

Control of Court over assignee.

76. (1) In the event of any official assignee not faithfully performing his duties and duly observing all the requirements imposed on him by any enactment, rules or otherwise, with respect to the performance of his duties, or in the event of any complaint being made to the Court by any creditor in regard thereto, the Court shall inquire into the matter and take such action thereon as may be deemed expedient.

(2) The Court may at any time require any official assignee to answer any inquiry made by it in relation to any bankruptcy in which he is engaged, and may examine him or any other person on oath concerning the bankruptcy.

(3) The Court may also direct a local investigation to be made of the books and vouchers of the official assignee.

PART V.

Special Assignees.

Appointment and removal of special assignee.

77. (1) If any creditor desires that any person other than the official assignee be appointed assignee of the bankrupt's estate, he may, at any time after the debtor has been adjudged bankrupt, apply to the Court to summon a meeting of the creditors for the purpose of considering the appointment of a special assignee.

(2) The Court may in any case, and shall if the creditor, or he and other creditors applying with him, represent one-fourth in value of the creditors, cause a meeting to be summoned for that purpose.

(3) At the meeting convened under sub-section (2) the creditors may, by ordinary resolution, appoint a special assignee of the property of the bankrupt.

(4) If a special assignee is appointed, he shall give security in manner prescribed to the satisfaction of the Court; and the Court, if satisfied with the security, shall certify that his appointment has been duly made, unless it disapproves of the appointment on the ground that it has not been made in good faith by a majority in value of the creditors voting, or that the person appointed is not fit to act as assignee, or that his connection with or relation to the bankrupt or his estate or any particular creditor makes it difficult for him to act with impartiality in the interests of the creditors generally.

(5) The appointment of a special assignee shall take effect as from the date of the certificate.

(6) If the Court disapproves of the appointment made at the meeting summoned under sub-section (2), it shall cause a further meeting of the creditors to be summoned for the purpose of appointing some other person to be special assignee.

(7) If either at the meeting summoned under sub-section (2), or at the further meeting summoned under sub-section (6), the creditors do not, by ordinary resolution, appoint a special assignee, or if at the further meeting they make an appointment of which the Court disapproves on any of the grounds mentioned in sub-section (4), the official assignee shall be the assignee throughout the bankruptcy.

(8) Subject to the provisions of this Act with respect to security and the approval of the Court, the creditors, if they think fit, may, by ordinary resolution, appoint more persons than one to the office of special assignee; and, where more persons than one are appointed, the creditors shall declare whether any act required or authorized to be done by the special assignee is to be done by all or any one or more of those porsons, all of whom are in this Act included under the term "special assignee," and shall be joint-tenants of the property of the bankrupt with right of survivorship.

(9) Where the Court disapproves of the appointment of any one of more persons than one appointed to the office of special assignee, it shall be deemed, subject to the next following sub-section, to disapprove of the appointment of all of them.

(10) Provided, with respect to sub-sections (6), (7), (8), and (9), that where the creditors resolve to appoint a special assignee, or more persons than one to the office of special assignee, they may appoint one or more persons to be substituted in succession in the place of the person first named, or of one or more of the persons first named, in the event of his or their declining to accept the office of special assignee, or failing to give security, or not being approved of by the Court.

(11) The creditors may, by ordinary resolution, at a meeting specially called for that purpose, of which seven days' notice has been given, remove a special assignee appointed by them, and may, at the same or any subsequent meeting, appoint another person to fill the vacancy as hereinafter provided in the case of a vacancy in the office of special assignee.

(12) If the Court is of opinion that a special assignee appointed by the creditors is guilty of misconduct, or fails to perform his duties under this Act, the Court may remove him from his office.

(13) If a vacancy occurs in the office of special assignee, the creditors at a meeting may appoint a person to fill the vacancy, and thereupon the same proceedings shall be taken as in the case of a first appointment.

(14) The official assignee shall, on the requisition of any creditor, summon a meeting for the purpose of filling any such vacancy.

(15) If the creditors do not within four weeks after the occurrence of a vacancy appoint a person to fill the vacancy, the official assignee shall be the assignee during the remainder of the bankruptcy.

(16) During any vacancy in the office of special assignee the official assignee shall act as assignee.

Status of special assignee.

78. Where a special assignee has been appointed under the last foregoing section, the property of the bankrupt shall vest in the special assignee without any conveyance or assignment for the purpose; and, save as provided by any general rules and any general or special orders of the Court, all the foregoing provisions of this Act referring to an official assignee shall, so far as may be, be construed as referring to the special assignee, subject to the following provisions, namely:—

(a) the references to the official assignee in sections 8, 9, 11, and 13 to 18 (both inclusive), section 20, sub-section (3), section 26, sub-sections (2), (4) and (6), sections 58 to 62 (both inclusive), and section 77, apply to the official assignee only;

(b) the special assignee shall not do any of the things mentioned in section 49 without the permission of the Court, or, if the Court so directs, of the prescribed officer, given on an application to the Court or to the prescribed officer, as the case may be, for permission to do the particular thing or things in the specified case or cases stated in the application;

(c) with his application to the Court for leave to declare a final dividend under section 54, the special assignee shall, when he has not realised all the property of the bankrupt, submit a report by the prescribed officer as to the sufficiency of the grounds for his opinion that he has realised so much of the property of the bankrupt as can be realised without needlessly protracting the proceedings in bankruptcy;

(d) the special assignee shall not, without the previous sanction of the Court, or, if the Court so directs, of the prescribed officer, appoint the bankrupt himself to discharge any of the duties mentioned in sub-section (1) of section 56, or make any allowance to the bankrupt under sub-section (2) of that section;

(e) the remuneration, if any, of the special assignee shall be in the nature of a commission or percentage, of which one part shall be payable on the amount realised, after deducting any sums paid to secured creditors out of the proceeds of their securities, and the other part on the amount distributed in dividend, and it shall be fixed by the creditors, by ordinary resolution, at the meeting at which he is appointed, but may be reduced by the Court, and shall be so adjusted that the expense of administration by a special assignee shall not exceed the expense of administration by the official assignee;

(f) the special assignee shall not, under any circumstances whatever, make any arrangement for or accept from the bankrupt, or any legal practitioner, auctioneer or any other person that may be employed about the bankruptcy, any gift, remuneration or pecuniary or other consideration or benefit whatever beyond the remuneration fixed by the creditors and payable out of the estate, nor shall he make any arrangement for giving up, or give up, any part of the remuneration payable to him in any capacity, to the bankrupt or to any legal practitioner or other person that may be employed about the bankruptcy;

(g) when no remuneration has been voted to the special assignee, he shall be allowed out of the bankrupt's estate such proper costs and expenses incurred by him in or about the proceedings of the bankruptcy as the prescribed officer may allow;

(h) the special assignee shall supply the official assignee with such information, and give him such access to, and facilities for inspecting, the bankrupt's books and documents, and generally shall give him such aid, as may be requisite for enabling the official assignee to perform his duties under this Act;

(i) where the special assignee has not previously resigned or vacated or been removed from his office, his release under section 71 shall operate as a removal of him from his office;

(j) the vote of the special assignee, or of his partner, clerk, legal practitioner or legal practitioner's clerk, either as creditor or as proxy for a creditor, shall not be reckoned in the majority required for passing any resolution affecting the remuneration or conduct of the special assignee.

PART VI.

CONSTITUTION, PROCEDURE, AND POWERS OF COURT.

Jurisdiction.

Courts having jurisdiction in bankruptcy.

79. (1) The Courts having jurisdiction in bankruptcy under this Act shall be—

(a) the High Courts of Judicature at Fort William, Madras, and Bombay;

(b) the Court of the Recorder of Rangoon; and

(c) subject to any limitation which the Governor-General in Council may impose with respect to the extent of the jurisdiction to be exercised, such other Civil Courts as the Local Government, with the previous sanction of the Governor-General in Council, may, from time to time, appoint in this behalf in the territories administered by it.

Local limits of their jurisdiction.

80. For the purposes of this Act the local limits of the jurisdiction of the said Courts shall, subject to the provisos to section 4, sub-section (1), be the following, namely:—

(a) the local limits of the jurisdiction of each of the said High Courts of Judicature shall be the local limits for the time being of its ordinary original civil jurisdiction;

(b) the local limits of the jurisdiction of the Court of the Recorder of Rangoon shall comprise the towns of Rangoon, Moulmein, Akyab, and Bassein;

(c) the local limits of the jurisdiction of a Court appointed by a Local Government shall be such as may, from time to time, be fixed, with the previous sanction of the Governor-General in Council, by that Local Government within the territories administered by it.

Jurisdiction to be exercised by a single Judge.

81. All matters in respect of which jurisdiction is given by this Act shall, where the Court consists of more Judges than one, be ordinarily transacted and disposed of by or under the direction of one of the Judges of that Court, and the Chief Justice or

senior Judge shall, from time to time, assign a Judge for that purpose.

Transfer of proceedings from Court to Court.

82. Any proceedings in bankruptcy pending in any Court appointed by the Local Government of a province under section 79 may, at any time, and at any stage thereof, and either with or without application from any of the parties thereto, be transferred by the High Court of the province to itself or to any Court appointed as aforesaid in the province.

Power to state special case.

83. If any question of law arises in any bankruptcy proceeding in a Court appointed by the Local Government of a province under section 79, and all the parties to the proceeding desire, or one of them and the Judge of the Court desire, to have the question determined in the first instance in the High Court of the province, the Judge shall state the facts, in the form of a special case, for the opinion of that High Court. The special case and the proceedings, or such of them as may be required, shall be transmitted to the High Court for the purposes of the determination.

Exercise of jurisdiction in chambers.

84. Subject to the provisions of this Act and to general rules, the Judge of a Court exercising jurisdiction in bankruptcy may exercise in chambers the whole or any part of his jurisdiction.

Delegation of powers to officers of Court and Presidency Judges of Small Causes.

85. (1) Subject to general rules limiting the powers conferred by this section, the High Court of Judicature at Fort William, Madras or Bombay may, from time to time, direct that, in any matters in respect of which jurisdiction is given to the Court by this Act, an officer of the Court or Judge of the Presidency Small Cause Court appointed by it in this behalf shall have all or any of the powers in this section mentioned; and any order made or act done by such officer or Judge in the exercise of the said powers shall be deemed the order or act of the High Court.

(2) The powers referred to in sub-section (1) are the following, namely:—

(a) to hear bankruptcy petitions, and to make receiving orders and adjudications thereon;

(b) to hold the public examination of debtors;

(c) to grant orders of discharge;

(d) to approve compositions or schemes of arrangements;

(e) to make interim orders in any case of urgency;

(f) to make any order or exercise any jurisdiction which by any rule in that behalf is prescribed as proper to be made or exercised in chambers;

(g) to hear and determine any unopposed or *ex parte* application;

(h) to summon and examine any person known or suspected to have in his possession effects of the debtor, or to be indebted to him, or to be capable of giving information respecting the debtor, his dealings or property.

Powers of Court of Recorder of Rangoon and Court appointed by Local Government.

86. The Court of the Recorder of Rangoon, and any Court appointed by a Local Government under section 79, shall, for the purposes of its bankruptcy jurisdiction, in addition to its ordinary powers, have all the powers and jurisdiction possessed by any of the said High Courts of Judicature; and the orders of the Court may be enforced accordingly in manner prescribed.

General powers of Bankruptcy Courts.

87. (1) Subject to the provisions of this Act every Court having jurisdiction in bankruptcy under this Act shall have full power to decide all questions of priorities, and all other questions whatsoever, whether of law or fact, which may arise in any case of bankruptcy coming within the cognizance of the Court, or which the Court may deem it expedient or necessary to decide for the purpose of doing complete justice or making a complete distribution of property in any such case.

(2) A Court having jurisdiction in bankruptcy under this Act shall not be subject to be restrained in the execution of its powers under this Act by the order of any other Court, nor shall any appeal lie from its decisions, except in manner directed by this Act.

(3) Where a receiving order has been made in any Court having jurisdiction in bankruptcy under this Act, and that Court consists of more Judges than one, the Judge by whom the order was made, or, where the order was made by an authority empowered in that behalf under section 85, the Judge assigned under section 81 for the transaction and disposal of matters in bankruptcy, shall have power, if he sees fit, without any further consent, to order the transfer to himself of any suit or other proceeding by or against the bankrupt pending before any other Judge or Judges of the Court.

(4) Where default is made by an assignee, debtor or other person in obeying any order or direction given by the Court or by an official assignee or any other officer of the Court under any power conferred by this Act, the Court may, on the application of the official assignee or other duly authorized person, or of its own motion, order the defaulting assignee, debtor or person to comply with the order or direction so given; and the Court may also, if it thinks fit, upon any such application make an immediate order for the committal of the defaulting assignee, debtor or other person:

Provided that the power given by this sub-section shall be deemed to be in addition to and not in substitution for any other right or remedy in respect of the default.

Appeals.

Appeals in bankruptcy.

88. (1) Every Court having jurisdiction in bankruptcy under this Act may review, rescind or vary any order made by it under its bankruptcy jurisdiction.

(2) Orders in bankruptcy matters shall, at the instance of any person aggrieved, be subject to appeal as follows:—

(a) an appeal from an order made by an officer of the Court or Judge of a Presidency Small Cause Court empowered under section 85 shall lie to the Judge assigned under section 81 for the transaction and disposal of matters in bankruptcy;

(b) an appeal from an original order made by a single Judge or Bench of a High Court consisting of more Judges than one shall, if appeals lie to the High Court from orders passed by a single Judge or Bench thereof in exercise of its original civil jurisdiction, lie to the High Court in accordance with the rules applicable to those appeals;

(c) an appeal from an order of the Court of the Recorder of Rangoon shall lie to the Special Court;

(d) an appeal from an order of a Court appointed by a Local Government under section 79, not being a High Court to which clause (b) of this sub-section applies, shall lie, if the Court is not a High

Court, to the High Court of the province, and, if the Court is a High Court, as the Governor-General in Council may from time to time direct;

(e) no appeal shall be entertained except in conformity with such general rules as may for the time being be in force in relation to the appeal.

Procedure.

Discretionary powers of the Court.

89. (1) Subject to the provisions of this Act and to general rules, the costs of and incidental to any proceeding in Court under this Act shall be in the discretion of the Court.

(2) The Court may at any time adjourn any proceedings before it upon such terms, if any, as it thinks fit to impose.

(3) The Court may at any time amend any written process or proceeding under this Act upon such terms, if any, as it thinks fit to impose.

(4) Where by this Act or by general rules the time for doing any act or thing is limited, the Court may extend the time either before or after the expiration thereof, upon such terms, if any, as the Court thinks fit to impose.

(5) Subject to general rules, the Court may in any matter take the whole or any part of the evidence either *vivâ voce* or by interrogatories, or upon affidavit, or by commission beyond the limits of British India.

(6) For the purpose of approving a composition or scheme by joint debtors, the Court may, if it thinks fit, and on the report of the official assignee that it is expedient so to do, dispense with the public examination of one of the joint debtors if he is unavoidably prevented from attending the examination by illness or absence abroad.

Consolidation of petitions.

90. Where two or more bankruptcy petitions are presented against the same debtor or against joint debtors, the Court may consolidate the proceedings or any of them, on such terms as the Court thinks fit.

Power to change carriage of proceedings.

91. Where the petitioner does not proceed with due diligence on his petition, the Court may substitute as petitioner any other creditor to whom the debtor is indebted in the amount required by this Act in the case of the petitioning creditor, or may give the carriage of proceedings to the official assignee.

Continuance of proceedings on death of debtor.

92. If a debtor by or against whom a bankruptcy petition has been presented dies, the proceedings in the matter shall, unless the Court otherwise orders, be continued as if he were alive.

Power to stay proceedings.

93. The Court may, at any time, for sufficient reason, make an order staying the proceedings under a bankruptcy petition, either altogether or for a limited time on such terms and subject to such conditions as the Court thinks just.

Power to present petition against one partner.

94. Any creditor whose debt is sufficient to entitle him to present a bankruptcy petition against all the partners of a firm may present a petition against any one or more partners of the firm without including the others.

Power to dismiss petition against some respondents only.

95. Where there are more respondents than one to a petition, the Court may dismiss the petition as to one or more of them without prejudice to the effect of the petition as against the other or others of them.

Property of partners to be vested in same assignee.

96. Where a receiving order has been made on a bankruptcy petition against or by one member of a partnership, any other bankruptcy petition against or by a member of the same partnership shall be filed in or transferred to the Court in which the first mentioned petition is in course of prosecution; and, if an assignee is acting in respect of the property of the first-mentioned member of the partnership, the same assignee shall, unless the Court otherwise directs, act in respect of the property of the last-mentioned member, and the Court may give such directions for consolidating the proceedings under the petitions as it thinks just.

Suits by assignee and bankrupt's partners.

97. Where a member of a partnership is adjudged bankrupt, the Court may authorize the assignee to commence and prosecute any suit or other legal proceeding in the names of the assignee and of the bankrupt's partner; and any release by the partner of the debt or demand to which the proceeding relates shall be void; but notice of the application for authority to commence the proceeding shall be given to him, and he may show cause against it, and on his application the Court may, if it thinks fit, direct that he shall receive his proper share of the proceeds of proceeding, and if he does not claim any benefit therefrom he shall be indemnified against costs in respect thereof as the Court directs.

Suits on joint contracts.

98. Where a bankrupt is a contractor in respect of any contract jointly with any other person, that other person may sue or be sued in respect of the contract without the joinder of the bankrupt.

Proceedings in partnership name.

99. Any two or more persons, being partners, or any person carrying on business under a partnership name, may take proceedings or be proceeded against under this Act in the name of the firm; but in that case the Court may, on application by any person interested, order the names of the persons who are partners in the firm, or the name of the person carrying on business under a partnership name, to be disclosed in such manner, and verified on oath or otherwise, as the Court may direct.

Annulment of Adjudication.

Power for Court to annul adjudication in certain cases.

100. (1) Where in the opinion of the Court a debtor ought not to have been adjudged bankrupt, or where it is proved to the satisfaction of the Court that the debts of the bankrupt are paid in full, or where in some part of British India, or of Her Majesty's dominions elsewhere, beyond the limits within which the Court ordinarily exercises civil jurisdiction, proceedings are pending for the distribution of the estate and effects of the bankrupt among his creditors under this Act or under the Bankrupt or Insolvent Laws of that part of Her Majesty's dominions, and it appears to the Court that the distribution ought to take place in that part of British India or of Her Majesty's dominions elsewhere, the Court may, on the application of any person interested, by order, annul the adjudication.

(2) Where an adjudication is annulled under this section, all sales and dispositions of property and payments duly made, and all acts theretofore done, by the assignee or other person acting under his authority, or by the Court, shall be valid, but the property of the debtor who was adjudged bankrupt shall vest in such person as

the Court may appoint, or, in default of any such appointment, revert to the debtor for all his estate or interest therein, on such terms and subject to such conditions, if any, as the Court may declare by order.

(3) Notice of the order annulling an adjudication shall be forthwith published in the prescribed manner.

(4) For the purposes of this section any debt disputed by a debtor shall be considered as paid in full if the debtor enters into a bond, in such sum and with such sureties as the Court approves, to pay the amount to be recovered in any proceeding for the recovery of or concerning the debt, with costs, and any debt due to a creditor who cannot be found or cannot be identified shall be considered as paid in full if paid into Court.

PART VII.

SMALL BANKRUPTCIES.

Summary administration in small cases.

101. When a petition is presented by or against a debtor, if the Court is satisfied by affidavit or otherwise, or the official assignee reports to the Court, that the property of the debtor is not likely to exceed in value three thousand rupees, the Court may make an order that the debtor's estate be administered in a summary manner, and thereupon the provisions of this Act shall be subject to the following modifications, namely:—

(*a*) if the debtor is adjudged bankrupt, the official assignee shall be the assignee in the bankruptcy;

(*b*) no appeal shall lie from any order of the Court, except by order of the Court;

(*c*) the estate shall, where practicable, be distributed in a single dividend;

(*d*) such other modifications may be made in the provisions of this Act as may be prescribed with the view of saving expense and simplifying procedure; but nothing in this section shall permit the modification of the provisions of this Act relating to the examination or discharge of the debtor.

PART VIII.

FRAUDULENT DEBTORS AND CREDITORS.

Construction of this Part.

102. (1) "The Court" in this Part means the Court before which an accused person is tried and, with respect to matters which it is the duty of a jury to decide or determine, includes the jury where the trial of the accused is by jury.

(2) Nothing in this Part shall prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence under this Part, or from being liable under that other law to any other or higher punishment or penalty than that provided by this Part:

Provided that a person shall not be punished twice for the same offence.

Punishment of fraudulent debtors.

103. Any person against whom a receiving order has been made under this Act shall, in each of the cases following, be punished with imprisonment which may extend to two years, or with fine, or with both; that is to say—

(*a*) if he does not, to the best of his knowledge and belief, fully and truly discover to the assignee administering his estate for the benefit of his creditors all his property, and how, and to whom, and for what consideration, and when, he disposed of any part thereof, except such part as has been disposed of in the ordinary way of his trade (if any), or laid out in the ordinary expenses of his family, unless the Court is satisfied that he had no intent to defraud:

(*b*) if he does not deliver up to that assignee, or as he directs, all such part of his property as is in his custody or under his control, and which he is required by law to deliver up, unless the Court is satisfied that he had no intent to defraud:

(*c*) if he does not deliver up to that assignee, or as he directs, all books, documents, papers and writings in his custody or under his control relating to his property or affairs, unless the Court is satisfied that he had no intent to defraud:

(*d*) if, after the presentation of a bankruptcy petition by or against him, or within four months next before the presentation thereof, he conceals any part of his property to the value of one hundred rupees or upwards, or conceals any debt due to or from him, unless the Court is satisfied that he had no intent to defraud:

(*e*) if, after the presentation of a bankruptcy petition by or against him, or within four months next before the presentation thereof, he fraudulently removes any part of his property of the value of one hundred rupees or upwards:

(*f*) if he makes any material omission in any statement relating to his affairs, unless the Court is satisfied that he had no intent to defraud:

(*g*) if, knowing or believing that a false debt has been proved by any person under the bankruptcy, he fails for the period of one month to inform the assignee aforesaid thereof:

(*h*) if, after the presentation of a bankruptcy petition by or against him, he prevents the production of any book, document, paper or writing affecting or relating to his property or affairs, unless the Court is satisfied that he had no intent to conceal the state of his affairs or to defeat the law:

(*i*) if, after the presentation of a bankruptcy petition by or against him, or within four months next before the presentation thereof, he conceals, destroys, mutilates or falsifies, or is privy to the concealment, destruction, mutilation or falsification of, any book or document affecting or relating to his property or affairs, unless the Court is satisfied that he has no intent to conceal the state of his affairs or to defeat the law:

(*j*) if, after the presentation of a bankruptcy petition by or against him, or within four months next before the presentation thereof, he makes or is privy to the making of any false entry in any book or document affecting or relating to his property or affairs, unless the Court is satisfied that he had no intent to conceal the state of his affairs or to defeat the law:

(*k*) if, after the presentation of a bankruptcy petition by or against him, or within four months next before the presentation thereof, he fraudulently parts with, alters or makes any omission in, or is privy to the fraudulently parting with, altering or making any omission in, any

document affecting or relating to his property or affairs:

(*l*) if, after the presentation of a bankruptcy petition by or against him, or at any meeting of his creditors within four months next before the presentation thereof, he attempts to account for any part of his property by fictitious losses or expenses.

(*m*) if while undischarged he obtains credit to the extent of two hundred rupees or upwards from any person without informing that person that he is an undischarged bankrupt:

(*n*) if, within four months next before the presentation of a bankruptcy petition by or against him, he, by any false representation or other fraud, has obtained any property on credit and has not paid for the same:

(*o*) if, within four months next before the presentation of a bankruptcy petition by or against him, he, being a trader, obtains, under the false pretence of carrying on business and dealing in the ordinary way of his trade, any property on credit, and has not paid for the same, unless the Court is satisfied that he had no intent to defraud:

(*p*) if, within four months next before the presentation of a bankruptcy petition by or against him, he, being a trader, pawns, pledges or disposes of otherwise than in the ordinary way of his trade any property which he has obtained on credit and has not paid for, unless the Court is satisfied that he had no intent to defraud:

(*q*) if he is guilty of any false representation or other fraud for the purpose of obtaining the consent of his creditors or any of them to any agreement with reference to his affairs or his bankruptcy.

Penalty for absconding with property.

104. If, after the presentation of a bankruptcy petition by or against him, or within four months next before the presentation thereof, any person against whom a receiving order is made under this Act quits British India and takes with him, or attempts or makes preparation to quit British India and to take with him, any part of his property to the amount of two hundred rupees or upwards, which ought by law to be divided amongst his creditors, he shall (unless the Court is satisfied that he had no intent to defraud) be punished with imprisonment which may extend to two years, or with fine, or with both.

Penalty on fraudulently obtaining credit, &c.

105. Any person shall in each of the cases following be punished with imprisonment which may extend to one year, or with fine, or with both; that is to say—

(*a*) if in incurring any debt or liability he has obtained credit under false pretences or by means of any other fraud;

(*b*) if he has, with intent to defraud his creditors, or any of them, made, or caused to be made, any gift, delivery or transfer of or any charge on his property;

(*c*) if he has, with intent to defraud his creditors, concealed or removed any part of his property since or within two months before the date of any unsatisfied decree or order for payment of money obtained against him.

Penalty on false claim, &c.

106. If any creditor, in any bankruptcy composition or arrangement with creditors wilfully and with intent to defraud makes any false claim, or any proof, declaration or statement of account which is untrue in any material particular, he shall be punished with imprisonment which may extend to one year, or with fine, or with both.

Debts incurred by fraud.

107. Where a debtor makes any composition or arrangement with his creditors, he shall remain liable for the unpaid balance of any debt which he incurred or increased, or whereof before the date of the arrangement or composition he obtained forbearance, by any fraud, provided the defrauded creditor has not assented to the arrangement or composition otherwise than by proving his debt and accepting dividends.

Order by Court for prosecution on report of assignee.

108. Where the assignee reports to any Court exercising jurisdiction in bankruptcy that in his opinion a debtor against whom a receiving order has been made under this Act has been guilty of any offence under this Act, or under section 421, 422, 423 or 424 of the Indian Penal Code or any amendment thereof, or where any such Court is satisfied upon the representation of any creditor that there is ground to believe that the debtor has been guilty of any offence as aforesaid, that Court shall, if it appears to it that there is a reasonable probability that the debtor may be convicted, order the assignee to prosecute him for the offence.

Criminal liability after discharge or composition.

109. Where a debtor has been guilty of any offence he shall not be exempt from being proceeded against therefor by reason that he has obtained his discharge or that a composition or scheme of arrangement has been accepted or approved.

PART IX.

SUPPLEMENTAL PROVISIONS.

Application of Act.

Application to married women.

110. A married woman shall, in respect of her separate property (if any), be subject to this Act in the same way as if she were unmarried.

Exclusion of corporations and companies.

111. A receiving order shall not be made against any corporation, or against any partnership, association or company registered under any enactment relating to companies for the time being in force.

Administration in bankruptcy of estate of person dying insolvent.

112. (1) Any creditor of a deceased debtor whose debt would have been sufficient to support a bankruptcy petition against the debtor, had he been alive, may present to the Court a petition in the prescribed form praying for an order for the administration of the estate of the deceased debtor according to the law of bankruptcy.

(2) Upon the prescribed notice being given to the executor, administrator or other legal representative of the deceased debtor, the Court may in the prescribed manner, upon proof of the petitioner's debt, unless the Court is satisfied that there is a reasonable probability that the estate will be sufficient for the payment of the debts owing by the deceased, make an order for the administration in bankruptcy of the deceased

debtor's estate, or may upon cause shown dismiss the petition with or without costs.

(3) An order of administration under this section shall not, in cases where a grant of probate or administration is required to establish a title as legal representative, be made until the expiration of two months from the date of the grant of probate or letters of administration, unless with the concurrence of the legal representative of the deceased debtor, or unless the petitioner proves to the satisfaction of the Court that the debtor committed an act of bankruptcy within three months prior to his decease.

(4) A petition for administration under this section shall not be presented to the Court after proceedings have been commenced in any Court of Justice for the administration of the deceased debtor's estate; but that Court may, in that case, on the application of any creditor, and on proof that the estate is insufficient to pay its debts, transfer the proceedings to the Court exercising jurisdiction in bankruptcy; and thereupon the last-mentioned Court may, in the prescribed manner, make an order for the administration of the estate of the deceased debtor, and the like consequences shall ensue as under an administration order made on the petition of a creditor.

(5) Upon an order being made for the administration of a deceased debtor's estate under this section, the property of the debtor shall vest in the official assignee of the Court, and he shall forthwith proceed to realize and distribute the same in accordance with the provisions of this Act.

(6) With the modifications hereinafter mentioned, all the provisions of Part III of this Act, relating to the administration of the property of a bankrupt, shall, so far as the same are applicable, apply to the case of an administration order under this section in like manner as to an order of adjudication under this Act.

(7) In the administration of the property of the deceased debtor under an order of administration, the official assignee shall have regard to any claims by the legal representative of the deceased debtor to payment of the proper funeral and testamentary expenses incurred by him in and about the debtor's estate; and those claims shall be deemed a preferential debt under the order, and be payable in full, out of the debtor's estate, in priority to all other debts.

(8) If, on the administration of a deceased debtor's estate, any surplus remains in the hands of the official assignee after payment in full of all the debts due from the debtor, together with the costs of the administration and interest as provided by this Act in case of bankruptcy, the surplus shall be paid over to the legal representative of the deceased debtor's estate, or dealt with in such other manner as may be prescribed.

(9) Notice to the legal representative of a deceased debtor of the presentation by a creditor of a petition under this section shall, in the event of an order for administration being made thereon, be deemed to be equivalent to notice of an act of bankruptcy, and after the notice no payment or transfer of property made by the legal representative shall operate as a discharge to him as between himself and the official assignee. Save as aforesaid, nothing in this section shall invalidate any payment made or act or thing done in good faith by the legal representative before the date of the order for administration.

(10) Unless the context otherwise requires, "Court" in this section means the Court exercising jurisdiction in bankruptcy within the local limits of the jurisdiction of which the debtor resided or carried on business for the greater part of the six months immediately prior to his decease; and "creditor" means one or more creditors qualified to present a bankruptcy petition as in this Act provided.

(11) General rules, for carrying into effect the provisions of this section, may be made in the same manner and to the like effect and extent as in bankruptcy.

General Rules.

Power to make general rules.

113. (1) The High Court of a province may, from time to time, with the concurrence of the Governor-General in Council, make, revoke, and alter general rules for carrying into effect the objects of this Act.

(2) All general rules made under the foregoing provisions of this section shall be judicially noticed, and shall have effect as if enacted by this Act.

(3) After the commencement of this Act no general rule under the provisions of this section shall come into operation until the expiration of one month after the same has been made and issued.

Fees.

Fees.

114. The High Court of a province, with the previous sanction of the Governor-General in Council, may from time to time make rules prescribing the fees and percentages to be charged for or in respect of proceedings under this Act, and the fees to be charged for or in respect of proceedings instituted under Chapter XX of the Code of Civil Procedure in any Court having jurisdiction under this Act, and may direct by whom and in what manner the same are to be collected and accounted for, and to what account they shall be paid.

Evidence.

Gazettes to be evidence.

115. (1) A copy of the *Gazette of India*, or of the Gazette of a Local Government, containing any notice inserted therein in pursuance of this Act or the rules made under this Act, shall be evidence of the facts stated in the notice.

(2) The production of a copy of the Gazette containing any notice of a receiving order, or of an order adjudging a debtor bankrupt, shall be conclusive proof in all legal proceedings of the order having been duly made, and of its date.

Evidence of proceeding at meetings of creditors.

116. (1) A minute of proceedings at a meeting of creditors under this Act, signed at the same or the next ensuing meeting by a person describing himself as, or appearing to be, chairman of the meeting at which the minute is signed, shall be received in evidence without further proof.

(2) Until the contrary is proved, every meeting of creditors in respect of the proceedings whereof a minute has been so signed shall be deemed to have been duly convened and held, and all resolutions passed or proceedings had thereat to have been duly passed or had.

Evidence of proceedings in bankruptcy.

117. Any petition or copy of a petition in bankruptcy, any order or certificate or copy of an order or certificate made by any Court having jurisdiction in bankruptcy, any instrument, affidavit or document or copy of an instrument, affidavit or document made or used in the course of any bankruptcy proceedings, or other proceedings had under this Act, shall, if it appears to be sealed with the seal of any Court having jurisdiction in bankruptcy, or purports to be signed by any Judge thereof, or is certified as a true copy by any Registrar thereof, be receivable in evidence in all legal proceedings whatever.

Swearing of affidavits.

118. Subject to general rules, any affidavit may be used in a bankruptcy Court if it is sworn—

(1) in British India, before—

(a) any Court or Magistrate,

(b) any officer whom the High Court of a province may appoint in this behalf, or

(c) any officer appointe dby any other Court which the Local Government has generally or specially empowered in this behalf;

(2) in England, before any person authorized to administer oaths in Her Majesty's High Court of Justice, or in the Court of Chancery of the County Palatine of Lancaster, or before any Registrar of a Bankruptcy Court, or before any officer of a Bankruptcy Court authorized in writing in that behalf by the Judge of the Court;

(3) in Scotland or in Ireland, before a Judge Ordinary, Magistrate or Justice of the Peace; and

(4) in any other place, before a Magistrate or Justice of the Peace or other person qualified to administer oaths in that place (he being certified to be a Magistrate or Justice of the Peace, or qualified as aforesaid, by a British Minister or British Consul or British Political Agent or by a notary public).

Death of witness.

119. In case of the death of the debtor, or of a witness whose evidence has been received by any Court in any proceeding under this Act, the deposition of the person so deceased, purporting to be sealed with the seal of the Court, or a copy thereof purporting to be so sealed, shall be admitted as evidence of the matters therein deposed to.

Bankruptcy Courts to have seals.

120. Every Court having jurisdiction in bankruptcy under this Act shall have a seal describing the Court in such manner as may be directed by order of the High Court of the province, and judicial notice shall be taken in all legal proceedings of the seal, and of the signature of the Judge or Registrar of any Court having that jurisdiction.

Certificate of appointment of assignee.

121. A certificate of the Court, that a person has been appointed or is an assignee under this Act, shall be conclusive proof of his having been appointed or being such assignee.

Time.

Computation of time.

122. (1) Where by or under this Act any limited time from or after any date or event is appointed or allowed for the doing of any act or the taking of any proceeding, then in the computation of that limited time the same shall be taken as exclusive of the day of that date or of the happening of that event, and as commencing at the beginning of the next following day, and the act or proceeding shall be done or taken at latest on the last day of that limited time as so computed, unless the last day is a day on which the Court does not sit, in which case any act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court sits.

(2) Where by or under this Act any act or proceeding is directed to be done or taken on a certain day, then, if that day happens to be a day on which the Court does not sit, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court sits.

Notices.

Service of notices.

123. All notices and other documents for the service of which no special mode is directed may be sent by prepaid post letter to the last known address of the person to be served therewith.

Formal Defects.

Formal defect not to invalidate proceedings.

124 (1) No proceeding in bankruptcy shall be invalidated by any formal defect or by any irregularity unless the Court before which an objection is made to the proceeding is of opinion that substantial injustice has been caused by the defect or irregularity, and that the injustice cannot be remedied by any order of that Court.

(2) No defect or irregularity in the appointment of an assignee shall vitiate any act done by him in good faith.

Bankrupt Trustee.

Application of Trustee Act to bankruptcy of trustee.

125. Where a bankrupt is a trustee within the Indian Trustee Act, 1866, section 35 of that Act shall have effect so as to authorize the appointment of a new trustee in substitution for the bankrupt (whether voluntarily resigning or not), if it appears expedient to do so, and all provisions of that Act, and of any other Act relative thereto, shall have effect accordingly.

Corporations, Firms, and Lunatics.

Acting of corporations, firms, and lunatics.

126. For all or any of the purposes of this Act, a corporation may act by any of its officers authorized in that behalf under the seal of the corporation; a firm may act by any of its members; and a lunatic may act by his committee, curator bonis or manager, or, when the matter is one in respect of which a Court of Wards has superintendence, by that Court or such person as it may appoint in this behalf.

Construction of former Acts, &c.

Construction of enactments and instruments referring to 11 and 12 Vic., c. 21.

127. Where by any enactment or instrument reference is made to the 11 & 12 Vic., cap. 21 (*an Act to consolidate and amend the Laws relating to Insolvent Debtors in India*), the enactment or instrument shall, so far as may be, be construed and have effect as if reference were made therein to the corresponding provisions of this Act.

Certain provisions to bind the Crown.

128. The provisions of this Act relating to the remedies against the property of a debtor, the priorities of debts, the effect of a composition or scheme of arrangement, and the effect of a discharge shall bind the Crown.

Saving for existing rights of audience.

129. Nothing in this Act, or in any transfer of jurisdiction effected thereby, shall take away or affect any right of audience that any person may have had immediately before the commencement of this Act; and all attorneys or other persons who had the right of audience before the Courts for the Relief of Insolvent Debtors shall have the like right of audience in bankruptcy matters in the High Courts of Judicature at Fort William, Madras, and Bombay respectively.

Unclaimed Funds or Dividends.

Payment into Court of unclaimed or undistributed dividends or funds.

130. (1) Where an assignee under any bankruptcy, composition or scheme pursuant to this Act has under his control any unclaimed dividend which has remained unclaimed for more than six months, or where, after making a final dividend, he has in his hands or under his control any unclaimed or undistributed money arising from the property of the debtor, or where, after the passing of this Act, any unclaimed or undistributed fund or dividend in the hands or under the control of an assignee under the 11 and 12 Vic., c. 21 (*an Act to consolidate and amend the Laws relating to Insolvent Debtors in India*) has remained or remains unclaimed or undistributed for six months after the same became claimable or distributable, or in any other case for two years after the receipt thereof by the assignee, the assignee shall forthwith pay it into the Court for credit, if it is held for an estate, to the Bankruptcy Estates Account of that Court, or, if it is held as a dividend for a creditor, to the Bankruptcy Dividends Account of that Court.

(2) In the case of an assignee under the Statute aforesaid in the Court for the Relief of Insolvent Debtors at Calcutta, Madras, or Bombay, or in the Court of the Recorder of Rangoon, "the Court" in sub-section (1) means the High Court of Judicature at Fort William, Madras, or Bombay, or the Court of the Recorder of Rangoon, as the case may be.

(3) The Court, with the concurrence of the Governor-General in Council, may, from time to time, appoint a person to collect and get in all such unclaimed or undistributed moneys, funds or dividends; and for the purposes of this section the Court shall have, and at the instance of the person so appointed or of its own motion may exercise, all the powers conferred by this Act with respect to the discovery and realization of the property of a debtor, and the provisions of Part I of this Act with respect thereto shall, with any necessary modifications, apply to proceedings under this section.

(4) The provisions of this section shall not, except as expressly declared herein, deprive any person of any larger or other right or remedy to which he may be entitled against the assignee.

Lapse and credit to Government of unclaimed or undistributed dividends.

131. Moneys transferred to the credit of the Bankruptcy Dividends Account which are not paid within six years from the date of their transfer to that account shall be carried to the account and credit of the Government of India, unless the Court, on the motion of a person interested, otherwise directs.

Claims to moneys paid into Court or credited to Government under section 130 or section 131.

132. Any person claiming to be entitled to any moneys paid into the Bankruptcy Estates Account or the Bankruptcy Dividends Account pursuant to section 130, or carried to the account and credit of the Government of India pursuant to section 131, may apply to the Court for an order for payment to him of the same; and the Court, if satisfied that the person claiming is entitled, shall make an order for payment to him of the sum due:

Provided that, before making an order for the payment of a sum which has been carried to the account and credit of the Government of India, the Court shall cause a notice to be served on such officer as the Governor-General in Council may appoint in this behalf, calling on the officer to show cause, within one month from the date of the service of the notice, why the order should not be made.

Distribution of certain unclaimed dividends reserved in respect of unproved claims under 11 and 12 Vic., c. 21.

133. (1) Where in the books of the official assignee of the Court for the Relief of Insolvent Debtors at Calcutta, Madras, or Bombay, or of the Court of the Recorder of Rangoon, a dividend in respect of the claim of a person who has been named in a schedule as a creditor of an insolvent in proceedings under the 11 and 12 Vic., c. 21 (*an Act to consolidate and amend the Laws relating to Insolvent Debtors in India*), but has not established his title to the dividend, has been standing to the credit of the estate of the insolvent for a longer period than six years from the date of the declaration of the dividend, the official assignee of the High Court of Judicature at Fort William, Madras, or Bombay, or of the Court of the Recorder of Rangoon, as the case may be, shall, at the prescribed time and in the prescribed form, file an account of it in Court, and publish the account in two successive issues of the local official Gazette.

(2) If the dividend is not claimed within six months from the date of the second publication of the account in the Gazette, it shall, after deduction therefrom of the cost of preparing, filing and publishing the account, be divided rateably among the creditors of the estate who have proved their debts or demands.

Debtor's Books.

Access to debtor's books.

134. (1) No person shall, as against the assignee, be entitled to withhold possession of the books of accounts belonging to the debtor or to set up any lien thereon.

(2) Any creditor of the bankrupt may, subject to the control of the Court, inspect at all reasonable times, personally or by agent, any such books in the possession of the assignee.

Interpretation.

Interpretation.

135. (1) In this Act, unless the context otherwise requires,—

(1) "province" means the territories under the administration of a local Government:

(2) "High Court of the province" and "High Court of a province" mean the highest Civil Court of appeal for a province:

(3) "the Court" (except in Part VIII) means the Court having jurisdiction in bankruptcy under this Act:

(4) "affidavit" includes declarations under any legislative enactment, affirmations, and attestations on honor.

(5) "assignee" means an official assignee or special assignee:

(6) "available act of bankruptcy" means any act of bankruptcy available for a bankruptcy petition at the date of the presentation of the petition on which the receiving order is made:

(7) "debt provable in bankruptcy" or "provable debt" includes any debt or liability by this Act made provable in bankruptcy:

(8) "general rules" includes forms:

(9) "Government treasury" includes a bank which conducts treasury business for the Government:

(10) "local authority" means any municipal committee, district board, body of port commissioners or other authority

legally entitled to, or entrusted by the Government with, the control or management of any municipal or local fund:

(11) "oath" includes affirmation, declaration under any legislative enactment, and attestation on honor:

(12) "ordinary resolution" means a resolution decided by a majority in value of the creditors present, personally or by proxy, at a meeting of creditors and voting on the resolution:

(13) "prescribed" means prescribed by general rules within the meaning of this Act:

(14) "property" includes money, goods, things in action, land and every other description of property, whether moveable or immoveable; also obligations, easements, and every description of estate, interest and profit, present or future, vested or contingent, arising out of or incident to property as above defined:

(15) "schedule" means a schedule to this Act:

(16) "secured creditor" means a person holding a mortgage, charge or lien on the property of the debtor, or any part thereof, as a security for a debt due to him from the debtor:

(17) "sheriff" includes any officer charged with the execution of a writ or other process;

(18) "special resolution" means a resolution decided by a majority in number and three-fourths in value of the creditors present, personally or by proxy, at a meeting of creditors and voting on the resolution.

(2) The schedules to this Act shall be construed and have effect as part of the Act.

Repeal.

Repeal of enactments.

136. (1) The enactments described in the third schedule are hereby repealed as from the commencement of this Act to the extent mentioned in that schedule.

(2) The repeal effected by this Act shall not affect—

(*a*) anything done or suffered before the commencement of this Act under any enactment repealed by this Act; or

(*b*) any right or privilege acquired, or duty imposed, or liability or disqualification incurred, under any enactment so repealed; or

(*c*) any fine, forfeiture or other punishment incurred or to be incurred in respect of any offence committed or to be committed against any enactment so repealed; or

(*d*) the institution or continuance of any proceeding or other remedy, whether under any enactment so repealed or otherwise, for ascertaining any such liability or disqualification, or recovering or enforcing any such fine, forfeiture or punishment as aforesaid.

(3) Notwithstanding the repeal effected by this Act, all proceedings in any Court or before a Judge of any Court under any of the enactments repealed pending at the commencement of this Act shall, except so far as any provision of this Act expressly applies to pending proceedings, continue, and those enactments shall, except as aforesaid, apply thereto, as if this Act had not passed.

(4) The person for the time being holding the office of official assignee for any of the High Courts of Judicature at Fort William, Madras, and Bombay, or for the Court of the Recorder of Rangoon, shall, for the purposes of any such proceedings pending before that Court or any Judge thereof, be deemed to have been appointed official assignee under the repealed enactment.

THE FIRST SCHEDULE.

(*See Section* 17.)

MEETINGS OF CREDITORS.

1. The official assignee shall summon the meeting mentioned in section 17 by giving not less than seven days' notice of the time and place thereof in the prescribed manner.

2. The official assignee shall also, as soon as practicable, send to each creditor mentioned in the debtor's statement of affairs a notice of the time and place of the meeting, accompanied by a summary of the debtor's statement of affairs, including the causes of his failure, and any observations thereon which the official assignee may think fit to make; but the proceedings at the meeting shall not be invalidated by reason of any such notice or summary not having been sent or received before the meeting.

3. The meeting shall be held at such place as is in the opinion of the official assignee most convenient for the majority of the creditors.

4. The official assignee or the special assignee may at any time summon a meeting of creditors, and shall do so whenever so directed by the Court, or so requested in writing by one-fourth in value of the creditors.

5. Meetings subsequent to the meeting mentioned in section 17 shall be summoned by sending notice of the time and place thereof to each creditor at the address given in his proof, or, if he has not proved, at the address given in the debtor's statement of affairs, or at such other address as may be known to the person summoning the meeting.

6. The official assignee, or some person nominated by him, shall be the chairman at every meeting: Provided that, if the Court so directs, the chairman at any meeting subsequent to the meeting mentioned in section 17 shall be such person as the meeting by ordinary resolution appoint.

7. A person shall not be entitled to vote as a creditor at any meeting of creditors unless he has duly proved a debt provable in bankruptcy to be due to him from the debtor, and the proof has been duly lodged before the time appointed for the meeting.

8. A creditor shall not vote at any such meeting in respect of any unliquidated or contingent debt, or any debt the value of which is not ascertained.

9. For the purpose of voting a secured creditor shall, unless he surrenders his security, state in his proof the particulars of his security, the date when it was given, and the value at which he assesses it, and shall be entitled to vote only in respect of the balance (if any) due to him, after deducting the value of his security. If he votes in respect of his whole debt, he shall be deemed to have surrendered his security, unless the Court on application is satisfied that the omission to value the security has arisen from inadvertence.

10. A creditor shall not vote in respect of any debt on or secured by a current bill of exchange or promissory note held by him, unless he is willing to treat the liability to him thereon of every person who is liable thereon antecedently to the debtor, and against whom a receiving order has not been made, as a security in his hands, and to estimate the value thereof and for the purposes of voting, but not for the purposes of dividend, to deduct it from his proof.

11. It shall be competent to the assignee, within twenty-eight days after a proof estimating the value of a security as aforesaid has been made use of in voting at any meeting, to require the creditor to give up the security for the benefit of the creditors generally on payment of the value so estimated, with an addition thereto of twenty per centum: Provided that, where a creditor has put a value on the security, he may at any time before he has been required to give up the security as aforesaid correct the valuation by a new proof, and deduct the new value from his debt, but in that case the addition of twenty per centum shall not be made if the assignee requires the security to be given up.

12. If a receiving order is made against one partner of a firm, any creditor to whom that partner is indebted jointly with the other partners of the firm, or any of them, may prove his debt for the purpose of voting at any meeting of creditors, and shall be entitled to vote thereat.

13. The chairman of a meeting shall have power to admit or reject a proof for the purpose of voting, but his decision shall be subject to appeal to the Court. If he is in doubt whether the proof of a creditor should be admitted or rejected, he shall mark the proof as objected to and shall allow the creditor to vote, subject to the vote being declared invalid in the event of the objection being sustained.

14. A creditor may vote either in person or by proxy.

15. Every instrument of proxy shall be in the prescribed form, and shall be issued by the official assignee, or, if a special assignee has been appointed, by the special assignee, and every insertion therein shall be in the handwriting of the person giving the proxy.

16. A creditor may give a general proxy to his manager or clerk, or any other person in his regular employment. In that case the instrument of proxy shall state the relation in which the person to act thereunder stands to the creditor.

17. A creditor may give a special proxy to any person to vote at any specified meeting or adjournment thereof, for or against any specific resolution, or for or against any specified person as special assignee.

18. A proxy shall not be used unless it is deposited with the official assignee or special assignee before the meeting at which it is to be used.

19. Where it appears to the satisfaction of the Court that any solicitation has been used by or on behalf of a special assignee in obtaining proxies, or in procuring the special assigneeship, except by the direction of a meeting of creditors, the Court shall have power, if it thinks fit, to order that no remuneration shall be allowed to the person by whom or on whose behalf the solicitation has been exercised, notwithstanding any resolution of the creditors to the contrary.

20. A creditor may appoint the official assignee of the debtor's estate to act in manner prescribed as his general or special proxy.

21. The chairman of a meeting may, with the consent of the meeting, adjourn the meeting from time to time, and from place to place.

22. A meeting shall not be competent to act for any purpose, except the election of a chairman and the adjournment of the meeting, unless there are present, or represented thereat, at least three creditors, or all the creditors if their number does not exceed three.

23. If within half an hour from the time appointed for the meeting a quorum of creditors is not present or represented, the meeting shall be adjourned to the same day in the following week at the same time and place, or to such other day as the chairman may appoint, not being less than seven or more than twenty-one days.

24. The chairman of every meeting shall cause minutes of the proceedings at the meeting to be drawn up, and fairly entered in a book kept for that purpose, and the minutes shall be signed by him.

25. No person acting under either a general or a special proxy shall vote in favor of any resolution which would directly or indirectly place himself, his partner or employer in a position to receive any remuneration out of the estate of the debtor otherwise than as a creditor rateably with the other creditors of the debtor: Provided that where any person holds special proxies to vote for the appointment of himself as special assignee, he may use the said proxies and vote accordingly.

THE SECOND SCHEDULE.

(*See Section* 32.)

PROOF OF DEBTS.

Proof in Ordinary Cases.

1. Every creditor shall prove his debt as soon as may be after the making of a receiving order.

2. A debt may be proved by delivering or sending through the post in a prepaid letter to the official assignee, or, if a special assignee has been appointed, to the special assignee, an affidavit verifying the debt.

3. The affidavit may be made by the creditor himself or by some person authorized by or on behalf of the creditor. If made by a person so authorized, it shall state his authority and means of knowledge.

4. The affidavit shall contain or refer to a statement of account showing the particulars of the debt, and shall specify the vouchers, if any, by which the same can be substantiated. The official assignee or special assignee may at any time call for the production of the vouchers.

5. The affidavit shall state whether the creditor is or is not a secured creditor.

6. A creditor shall bear the cost of proving his debt, unless the Court otherwise specially orders.

7. Every creditor who has lodged a proof shall be entitled to see and examine the proofs of other creditors at all reasonable times.

8. A creditor proving his debt shall deduct therefrom all trade discounts, but he shall not be compelled to deduct any discount, not exceeding five per centum on the net amount of his claim, which he may have agreed to allow for payment in cash.

Proof by Secured Creditors.

9. If a secured creditor realizes his security, he may prove for the balance due to him, after deducting the net amount realized.

10. If a secured creditor surrenders his security to the assignee for the general benefit of the creditors, he may prove for his whole debt.

11. If a secured creditor does not either realize or surrender his security, he shall, before ranking for dividend, state in his proof the particulars of his security, the date when it was given and the value at which he assesses it, and shall be entitled to receive a dividend only in respect of the balance due to him after deducting the value so assessed.

12. (*a*) Where a security is so valued, the assignee may at any time redeem it on payment to the creditor of the assessed value.

(*b*) If the assignee is dissatisfied with the value at which a security is assessed, he may require that the property comprised in any security so valued be offered for sale at such times and on such terms and conditions as may be agreed on between the creditor and the assignee, or as, in default of agreement, the Court may direct. If the sale is by public auction, the creditor, or the assignee on behalf of the estate, may bid or purchase.

(*c*) Provided that the creditor may at any time, by notice in writing, require the assignee to elect whether he will or will not exercise his power of redeeming the security or requiring it to be realized, and if the assignee does not, within six months after receiving the notice, signify in writing to the creditor his election to exercise the power, he shall not be entitled to exercise it; and the equity of redemption, or any other interest in the property comprised in the security which is vested in the assignee, shall vest in the creditor, and the amount of his debt shall be reduced by the amount at which the security has been valued.

13. Where a creditor has so valued his security, he may at any time amend the valuation and proof on showing to the satisfaction of the assignee, or the Court, that the valuation and proof were made *bonâ fide* on a mistaken estimate, or that the security has diminished or increased in value since its previous valuation; but every such amendment shall be made at the cost of the creditor, and upon such terms as the Court shall order, unless the assignee shall allow the amendment without application to the Court.

14. Where a valuation has been amended in accordance with the foregoing rule, the creditor shall forthwith repay any surplus dividend which he has received in excess of that to which he would have been entitled on the amended valuation, or, as the case may be, shall be entitled to be paid out of any money for the time being available for dividend any dividend or share of dividend which he has failed to receive by reason of the inaccuracy of the original valuation, before that money is made applicable to the payment of any future dividend, but he shall not be entitled to disturb the distribution of any dividend declared before the date of the amendment.

15. If a creditor after having valued his security subsequently realizes it, or if it is realized under the provisions of rule 12, the net amount realized shall be substituted for the amount of any valuation previously made by the creditor, and shall be treated in all respects as an amended valuation made by the creditor.

16. If a secured creditor does not comply with the foregoing rules, he shall be excluded from all share in any dividend.

17. Subject to the provisions of rule 12, a creditor shall in no case receive more than sixteen annas in the rupee and interest as provided by this Act.

Taking Accounts of Property mortgaged and Sale thereof.

18. Upon application by motion by any person claiming to be a mortgagee of any part of the bankrupt's immoveable property, whether the mortgage is of a legal or equitable nature, the Court shall proceed to inquire whether the person is such mortgagee, and for what consideration and under what circumstances; and if it is found that the person is such mortgage, and if no sufficient objection appears to the title of the person to the sum claimed by him under the mortgagee, the Court shall direct such accounts and inquiries to be taken as may be necessary for ascertaining

the principal, interest and costs due upon the mortgage, and the rents and profits, or dividends, interest or other proceeds received by the person, or by any other person by his order or for his use in case he has been in possession of the property over which the mortgage extends, or any part thereof; and the Court, if satisfied that there ought to be a sale, shall direct notice to be given in such Gazettes or Newspapers as it thinks fit, when and where, and by whom and in what way, the property, or the interest therein so mortgaged, is to be sold, and that the sale be made accordingly, and that the assignee (unless it be otherwise ordered) shall have the conduct of the sale; but it shall not be imperative on any such mortgagee to make such application. At any such sale the mortgagee may bid and purchase.

19. All proper parties shall join in the conveyance to the purchaser, as the Court may direct.

20. The moneys arising from the sale shall be applied in the first place in payment of the costs, charges and expenses of the assignee, of and occasioned by the application to the Court and of and attending the sale, and then in payment and satisfaction so far as the same will extend of what is found due to the mortgagee, for principal, interest and costs; and the surplus of the said moneys (if any) shall then be paid to the assignee. But in case the moneys arising from the sale are insufficient to pay and satisfy what is so found due to the mortgagee, then he shall be entitled to prove as a creditor for the deficiency, and receive dividends thereon rateably with the other creditors, but not so as to disturb any dividend then already declared.

21. For the better taking of such inquiries and accounts, and making a title to the purchaser, all parties may be examined by the Court upon interrogatories or otherwise as it may think fit, and shall produce before the Court upon oath all deeds, papers, books and writings in their respective custody or power relating to the estate or effects of the bankrupt, as the Court may direct.

Proof in respect of Distinct Contracts.

22. If a debtor was at the date of the receiving order liable in respect of distinct contracts as a member of two or more distinct firms, or as a sole contractor and also as member of a firm, the circumstance that the firms are in whole or in part composed of the same individuals, or that the sole contractor is also one of the joint contractors, shall not prevent proof in respect of the contracts against the properties respectively liable on the contracts.

Periodical Payments.

23. When any rent or other payment falls due at stated periods, and the receiving order is made at any time other than one of those periods, the person entitled to the rent or payment may prove for a proportionate part thereof up to the date of the order as if the rent or payment grew due from day to day.

Interest.

24. On any debt or sum certain, payable at a certain time or otherwise, whereon interest is not reserved or agreed for, and which is overdue at the date of the receiving order and provable in bankruptcy, the creditor may prove for interest at a rate not exceeding six per centum per annum to the date of the order from the time when the debt or sum was payable, if the debt or sum is payable by virtue of a written instrument at a certain time, and, if payable otherwise, then from the time when a demand in writing has been made giving the debtor notice that interest will be claimed from the date of the demand until the time of payment.

Debt payable at a future Time.

25. A creditor may prove for a debt not payable when the debtor committed an act of bankruptcy as if it were payable presently, and may receive dividends equally with the other creditors, deducting only thereout a rebate of interest at the rate of five per centum per annum computed from the declaration of a dividend to the time when the debt would have become payable according to the terms on which it was contracted.

Admission or Rejection of Proofs.

26. The assignee shall examine every proof and the grounds of the debt, and in writing admit or reject it in whole or in part, or require further evidence in support of it. If he rejects a proof, he shall state in writing to the creditor the grounds of the rejection.

27. If the assignee thinks that a proof has been improperly admitted, the Court may, on the application of the assignee, after notice to the creditor who made the proof, expunge the proof or reduce its amount.

28. If a creditor is dissatisfied with the decision of the assignee in respect of a proof, the Court may, on the application of the creditor, reverse or vary the decision.

29. The Court may also expunge or reduce a proof upon the application of a creditor if the assignee declines to interfere in the matter, or, in the case of a composition or scheme, upon the application of the debtor.

30. For the purpose of any of his duties in relation to proofs, the assignee may administer oaths and take affidavits.

THE THIRD SCHEDULE.

(*See Section* 136.)

ENACTMENTS REPEALED.

A.—Statute repealed.

Year and Chapter.	Title.	Extent of Repeal.
11 and 12 Vic., c. 21.	An Act to consolidate and amend the Laws relating to Insolvent Debtors in India.	So much as has not been repealed.

B.—Acts repealed.

Number and Year.	Subject or Title.	Extent of Repeal.
XXVII of 1841.	An Act for appropriating the unclaimed Dividends on Insolvent Estates.	So much as has not been repealed.
XVII of 1875.	The Burma Courts Act, 1875.	Section 66.

STATEMENT OF OBJECTS AND REASONS.

This matter of the general amendment of the law of bankruptcy and insolvency in India has been frequently of late years pressed upon the attention of the Government of India.

There are at present two main bodies of insolvency law in force in British India—first, the Statute 11 and 12 Vic., cap. 21, and secondly, chapter XX of the Code of Civil Procedure (XIV of 1882). Roughly speaking, the former constitutes the insolvency law for the three Presidency-towns and for the towns of Rangoon, Moulmein, Akyab, and Bassein; the latter, the law for the country outside those towns. It is, however, to be observed that the High Courts administer the insolvency chapter of the Civil Procedure Code concurrently with their ordinary insolvency jurisdiction. Besides these two main bodies of law, there is a special insolvency law for the Punjab under Act IV of 1872, sections 22 to 33; and there are special Acts that have been passed for the relief of indebted land-owners in different parts of the country.

2. In the year 1870 Sir James Stephen introduced a Bill repealing the Statute of 1848, and substituting for it an insolvency law applicable to the whole of British India. It was taken mainly from the English Bankruptcy Act of 1869. The general opinion about it was that its provisions were too complicated for the Mufassal, and that the system of voluntary management by creditors, which was then the principle of the English Act, was unsuitable to India, and the measure was accordingly dropped. The Bill was possibly open to the objection that it was beyond the competency of the Indian Legislature, but this point does not appear to have been taken at the time.

3. Sir Arthur Hobhouse did not attempt to touch the insolvency law of the Presidency-towns, but he paid a good deal of attention to what he described as "those seldom-used sections" of the

Code of Civil Procedure "which do duty for an insolvency law" in the Mufassal.* Speaking on the subject in 1875,† he remarked that the Code then contained the germ of an insolvency law, but nothing more than a germ. He believed that this part of the Code had been very little used, and he remarked that, if this was so, it was not surprising, as there was very small inducement to the debtor to avail himself of it. It seemed however, he went on to say, to be the prevailing opinion that the judicial machinery in the Mufassal was hardly adapted to the working of any general and complete law of insolvency. At all events, he said, such a law should be treated as a separate measure, and not as part of the Code. It would probably, he added, be better for the present, and be likely to pave the way for some more complete measure in the future, if the Legislature were to make the law a little less rudimentary than it then was, and at all events to supplement it where it seemed to be broken off in its natural course; and he embodied in chapter XX of the Code of 1877 certain provisions framed in accordance with these views.

* Legislative Proceedings, 1876, page 241.

† Legislative Proceedings, 1875, page 76.

4. By Act XII of 1879 (now superseded by the Code of Civil Procedure of 1882) several amendments were made in the insolvency chapter of the Code. The most important of these was the extension of the chapter to persons against whose property orders of attachment had been issued in execution of money-decrees. In his speech on the passing of this Act, Mr. Whitley Stokes said that chapter XX, even with all the improvements made by this Act, would still be incomplete; but that it went as far as most of the Committee, with their present knowledge of the condition of the Mufassal Courts and the extent of India's indebtedness, thought safe and wise. The Government of India in the Home Department, he said, either had issued, or was about to issue, a circular to the Local Governments requesting their opinion as to the propriety of allowing debtors to a certain amount to apply for a declaration of insolvency, and, if this were found possible, the law would be altered accordingly.‡

‡ Abstract of Proceedings, 1879, page 202.

5. The circular referred to by Mr. Stokes was issued on the 22nd of September 1879, and invited an expression of opinion on the suggestion that persons owing Rs. 200 and upwards should be allowed to apply to be adjudged insolvents, though they might not have been arrested or imprisoned, and though no order of attachment against their property had been made. The majority of the opinions received was adverse to the suggestion, and accordingly it was dropped.

6. In January 1881, Mr. Pitt-Kennedy brought in a Bill for the amendment of the law relating to insolvent debtors in India. It was a short amending Bill of seven sections, and did not attempt to consolidate the law. Serious doubts were entertained whether some of the proposals of the Bill were not *ultra vires*, and it was therefore decided that the Bill should not be proceeded with. In the mean time, however, it had been circulated to Local Governments and Administrations for opinion, and among the comments and criticisms which were passed upon it the doubt is not unfrequently expressed whether it was worth while to pass a mere amending Bill, and whether it would not be possible to recast completely the insolvency law for India.

7. It is clear further that, apart from any question of general revision, there are certain points in which the existing law stands in somewhat urgent need of emendation.

Thus, the Secretary of State, in a despatch dated the 21st October 1880, requested the early consideration by the Government of India, in communication with the several High Courts, of the question whether the Insolvency Courts could not, under the existing law, order the charge for advertising notices of insolvency in the provincial Gazettes and in the *London Gazette* to be defrayed from the estates concerned, and suggested that, if necessary, recourse should be had to legislation to ensure the recovery from every estate of all costs, whether incurred in England or in India, attendant on the insolvency. The Local Governments and High Courts were consulted on this question; and though the majority of them were of opinion that the point might be dealt with by an alteration of the statutory rules, yet the possibility of meeting the difficulty satisfactorily in this way does not appear to be altogether free from doubt.

8. Again, at Bombay, in consequence of the discovery some five or six years ago of serious defalcations on the part of the Official Assignee, it became necessary to reorganize the office of that functionary, and the High Court deemed it necessary—

(1) to provide that the accounts of the Official Assignee should be regularly audited by a competent auditor; and

(2) to appoint an Official Assignee of such position and character as might afford an effectual guarantee against misappropriation, and of such energy and legal knowledge as might ensure the most satisfactory and least expensive realization and distribution amongst creditors.

For these purposes additional funds were required, and the Court proposed to provide these funds mainly from unclaimed dividends. Accordingly, they framed certain new rules under the Insolvency Act of 1848, by which the unclaimed dividends were to be formed into a fund to be invested, with other money, in Government paper. The interest was to be applied in paying an auditor and in supplementing the remuneration of the Official Assignee. These rules have hitherto been acted on, but doubts have been suggested as to their validity, and the Bombay Government have been pressing the Government of India to introduce or sanction legislation for the purpose of validating them. It appears, however, to be doubtful whether they can be validated by anything short of Parliamentary legislation.

9. The insolvency law of the Presidency-towns is admittedly cumbrous, defective and out of date, and in some points of detail is, as has been shown, urgently in need of amendment. The proposals for its revision which have hitherto been submitted to the Legislature have been objected to, not so much on the ground that they were undesirable as on the ground that they were insufficient, and that, while it was desirable to recast the whole law and bring it into conformity with English law, it was expedient to postpone legislation for this purpose while proposals involving important amendments of the English law itself were under consideration. This objection has recently been removed by the passing of the English Bankruptcy Act of 1883. That Act may not be perfect, but at least it embodies the accumulated experience of the thirty-five years which elapsed since the passing of the Indian Insolvency Act, and in commercial law perfection of detail is less important than uniformity of principle. It is eminently desirable that the circumstances under which a debtor may be declared

insolvent and under which he may obtain his discharge should be, as far as possible, the same in London and Calcutta.

10. The Government of India, therefore, after reference to the Secretary of State, came to the conclusion that the opportunity should be taken of repealing the Indian Insolvency Act and substituting a new Act conforming in general principles to the English Act of 1883, but adapted in details to Indian circumstances.

A Bill on these lines was prepared last year, and, having regard to the circumstance that an Indian Bankruptcy Act will have in some cases to be used by persons beyond the limits of British India, and to the advantage of having the decisions of the English Courts as a guide to its construction, it was thought well that its form and drafting should follow the English Act as closely as possible, except where there was some substantial reason for taking a different course. The result of the adoption of the English Act as a model then is that in some instances the phraseology of the present Bill, which is based on the draft of 1885, will be found to vary slightly from that ordinarily adopted in Acts of the Indian Legislature, and in others it may be found to contain rules of interpretation and evidence, penal clauses and other provisions, which either cover ground already covered by parallel Indian enactments, or would be somewhat differently framed in a Bill intended only for this country.

11. The Bill which was prepared last year was submitted for opinion to the authorities most competent to advise on the subject of bankruptcy, and the further deviations from the scheme of the English Act which will be found in the present Bill are the outcome of the advice given by those authorities.

12. The first question which presents itself in connection with this measure is whether the new law should be applied to the whole of British India or only to specified towns.

There is something to be said in favor of having one, and only one, insolvency law for the whole of India. But, on the other hand, the difference between the circumstances of indebtedness in commercial seaports and in the interior appears to be such as to require, not indeed a different law, but different machinery. If chapter XX of the Code of Civil Procedure were not in existence, it might be desirable to insert in a general Insolvency Act a chapter applying the law for the Presidency-towns, with modifications and simplifications, to the Mufassal Courts. But under existing circumstances it is thought that the best course is to keep chapter XX standing, to amend it where necessary, and to apply it generally to parts of the country and to forms of indebtedness to which a law framed principally with a view to commercial insolvencies is not applicable, the new law being applied in the first instance only to the three Presidency-towns, and to Rangoon, Moulmein, Akyab, and Bassein, and a power being taken to extend it to other commercial centres, such as Karachi.

13. The Bill accordingly (section 79) constitutes by its direct operation only four Courts of Bankruptcy, namely, the High Courts of Judicature at Calcutta, Madras, and Bombay and the Court of the Recorder of Rangoon, and confers upon the Local Governments power, with the previous sanction of the Governor-General in Council, to constitute other Courts of Bankruptcy in the territories administered by them. The local limits of the jurisdiction of the Presidency High Courts when exercising bankruptcy jurisdiction are (section 80) defined to be the same as the local limits of their ordinary original civil jurisdiction, the local limits of the jurisdiction of the Recorder of Rangoon to comprise (as at present) the towns of Rangoon, Moulmein, Akyab, and Bassein. The local limits of the Courts which may be constituted by Local Governments will be defined by those Governments with the previous sanction of the Governor-General in Council.

14. The next question that presents itself is one as to the powers of the Governor-General's Council. The present Indian insolvency law is contained in an Act of Parliament so framed as to operate throughout Her Majesty's dominions. Thus a vesting order made under it vests in the assignee by its direct operation all the real and personal estate and effects of the insolvent in whatever part of those dominions they may be situated or accrue. An order of discharge made under it has direct effect in every part of those dominions. And the subordinate provisions of the Act are, speaking generally, framed on similar lines. The Act is one of those which it is within the competency of the Legislative Council of the Governor-General to modify or repeal; but if we were to undertake without the aid of Parliament to repeal and recast it in the manner above indicated, we should, owing to the limitation of our legislative powers, produce an enactment which would fall short of the present law in the important matter of its local extent and operation. Nor could we attain our object by any amendment of the existing Act. To say nothing of the impracticability, from the draftman's point of view, of effecting, by way of amendment, the multitude of alterations which are needed in details and in matters of form, it must be remembered that it would be beyond the powers of the Council to extend in any way or substantially modify any of those provisions which apply beyond the limits of British India. And it is apprehended that, even if we were content to forego all notion of directly interfering with these provisions, any extensive amendment of the Act would probably affect them in such a way that either they would be held to have lost their operation beyond British India, or our enactment would be held to be *ultra vires* so far as it affected them, or else some other confusion or difficulty would arise.

15. It is an apprehension of some such result as this that has deterred the Government from attempting certain amendments of the Insolvency Act which have been from time to time suggested, and which in themselves would appear to be of a most trifling description. It is true that if the Council were to repeal the existing Act and substitute for it an Act of its own, drawn on improved lines, the new law, though treated as a foreign bankruptcy law, would receive a certain amount of recognition, and would be given affect to in many cases in the United Kingdom and in British Colonies; but it is apprehended that this result would, as a rule, be attainable only indirectly and through the medium of further judicial proceedings, that in some cases those proceedings would give rise to perplexing questions of private international law, and that in other cases again the Indian law would obtain but partial recognition. It is believed, for example, that a vesting order passed by our Courts under such a law would be allowed no effect as regards immoveable property situate in another British jurisdiction, and that the cases in which effect would be given to an order of discharge so passed are not as yet completely defined. Such difficulties could, no doubt, be met by supplementary bankruptcy proceedings concurrently instituted in the United Kingdom or the Colony, but it is obvious that the necessity for this should, if possible, be avoided. The Government of India has no infor-

mation as to the proportion of the cases that now come before our Insolvency Courts in this country in which a limitation of the local operation of the law, like that just referred to, would be felt as a serious impediment, but it is apprehended that it would be so felt in the more important cases of bankrupts engaged in business transactions extending to the United Kingdom of the Colonies.

16. For these reasons it is necessary that any legislation undertaken here should be supported by an Act of Parliament. The precise form which the Act of Parliament should take is still under consideration in communication with the Secretary of State, but the Government of India as at present advised is disposed to think that the Act should be a confirming Act following legislation here rather than an enabling Act preceding it. An enabling Act followed by an Indian Act would give rise to questions as to whether the Indian Legislature had exceeded the powers given to it by the English Act.

17. As regards the provisions of the Bill itself, it will be observed that the most striking difference between them and those of the English Act is that the duties discharged in England by the Board of Trade and committees of inspection are by the Bill entrusted to the Bankruptcy Court. This was unavoidable, as there is no authority in this country outside the Courts which could undertake the duties of the Board of Trade with any prospect of success, and the opinion is almost unanimous that the superintendence of bankruptcy proceedings by committees of inspection is unsuited to India.

18. Opinion is also adverse to the application to India of some of the provisions of the English Act respecting meetings of creditors. It is proposed therefore that meetings shall be held only when they are deemed by the assignee or the Court or one-fourth in value of the creditors to be necessary.

19. The other points in the Bill which appear to require explanation will be referred to, as far as possible, in the order of the sections in which they occur.

20. The local extent of the Act (section 1) has been made as wide as the powers of the Indian Legislature permit, and its operation can only be further extended by Parliament.

21. Several of the authorities who have recorded opinions on the draft of 1885, and among them a Committee of the Judges of the High Court at Fort William, have taken exception to the seizure and sale of the goods of a debtor under process of a Civil Court, and the failure of a debtor to comply with the requirements of a bankruptcy notice, being made acts of bankruptcy in India as they have been in England by section 4, sub-section (1), clauses (*e*) and (*g*), of the English Act. Those clauses therefore have been excluded from the Bill (section 2), but in their stead have been added clauses making it an act of bankruptcy for a debtor to offer a composition to his creditors (L. R. 13 Q. B. D. 471), or to be lying in prison for a longer period than twenty-one days for making default in payment of money (11 & 12 Vic., c. 21, ss. 8 and 9).

22. By section 4 the jurisdiction of the Court is limited to cases in which the debtor is in prison within the local limits of the jurisdiction under an order of a Civil Court for default in payment of money, or in which the debtor, or, if he is a member of a firm, his partner, has within a year before the presentation of the bankruptcy petition ordinarily resided or had a dwelling-house or place of business within those limits. This differs from the corresponding provisions of the English Act, which place no restriction of this kind on a petition by a debtor, and which admit a petition against a debtor when, and only when, he "is domiciled in England, or, within a year before the date of the presentation of the petition, has ordinarily resided or had a dwelling-house or place of business in England."

It differs also from the corresponding provisions of the Indian Insolvency Act, which proceed on the distinction, now to be abolished, between traders and others, and the effect of which in all particulars it would be hazardous to attempt to state.

23. As regards the difference between the English Act and the Bill in this respect, it seems clear that the fact of the debtor being in prison within the jurisdiction should, in this country, continue to be, as it is under the present Insolvency Act, a ground of jurisdiction; and it seems almost equally clear, having regard to the conditions under which the present legislation is undertaken and to the circumstance that the local limits of the jurisdiction of each Court, however they may be fixed, must embrace only a part of British India, that domicile should be rejected here as a ground of jurisdiction.

24. Comparing the Bill with the existing Indian Insolvency law as construed by the High Courts, it will be observed that Bankruptcy Courts will, under the Bill, continue to have jurisdiction in cases where the bankrupt has a house of business within the local limits, as Pontifex, J., held them, in the cases of *Tariny Churn Goho* (I. B. L. R., App. 26) and *Howard Brothers* (I. B. L. R. 254), to have under the existing law, but that a High Court will not have bankruptcy jurisdiction in respect of an up-country debtor merely by reason of his being personally subject to the jurisdiction of that Court. It will be remembered that opposite views have been taken as to the existence of a jurisdiction on this latter ground under the existing law (see *re Tietkins*, I. B. L. R., O. C., 84, on the one hand, and *re Blackwell*, 9 Bo. H. C. Rep. 461, and *re Ricks*, 3 Mad. H. C. Rep. 151, on the other).

25. It has, however, been provided (section 4), on the recommendation of the Committee of the Judges of the High Court at Fort William, that a Court exercising jurisdiction in bankruptcy under the proposed Act may transfer to itself any proceedings under chapter XX of the Code of Civil Procedure and deal with them under the Act. It has also been provided (section 4) that in any prescribed class of cases the Court may make a receiving order on a bankruptcy petition notwithstanding the restrictions generally confining its jurisdiction to cases arising within certain local limits. Section 9 provides that, where concurrent proceedings have been instituted under the Bankruptcy Act and under the Code, the Court may stay the proceedings under the Code wherever they may be pending.

26. On the recommendation of the Chief Judge of the Bombay Court of Small Causes, it is proposed (section 7) that a Bankruptcy Court may refuse to make a receiving order on a debtor's petition if in its opinion the petition ought to have been presented before some other Bankruptcy Court.

27. A receiving order made under section 6 or section 7 of the Bill will not have precisely the same effect as a vesting order under section 7 of the present Insolvency Act. It will transfer the possession of, but not the property in, the debtor's estate. The debtor will not be divested of his estate until he has been adjudged bankrupt (section 20).

28. When the receiving order has been made, the debtor, if in prison, will be released (section 8), but he will be under the control of the official assignee (section 22), to whom the carriage of

proceedings may be given if the petitioner does not proceed with due diligence (section 91).

29. Sections 13 and 100 of the Bill give a Bankruptcy Court power to rescind a receiving order or annul an adjudication of bankruptcy when it considers that the debtor's estate would be more conveniently administered in some other part of British India or of Her Majesty's dominions elsewhere. When an adjudication is annulled under the latter section, anything done under it remains valid, and the Court is empowered to direct that the debtor's property shall vest in any person it may appoint. It is conceived that, if similarly wide powers are conferred on the English Bankruptcy Courts, the provisions regarding concurrent bankruptcies contained in sections 77 *et seq.* of the present Indian Insolvency Act may be dispensed with.

30. Section 58 protects existing interests of official assignees, and while it is proposed (section 62), in accordance with ordinary Indian practice, to leave the remuneration of official assignees to be determined by executive order, it is improbable that the existing mode of remuneration will be altered during the incumbency of present office-holders.

31. It was urged, among other objections to Sir J. Stephen's Bill, that it would generally be difficult to find among the creditors in this country persons qualified and willing to take a large share in the administration of a bankrupt's estate, and as a matter of fact the official element has always been prominent in administrations under the existing law. It is accordingly proposed, on the practically unanimous advice of all authorities conversant with the practice of bankruptcy in this country, that the official assignee shall discharge the functions of trustee in bankruptcy except when the creditors express a wish for the appointment of a special assignee (section 77).

32. By section 24 of the Bill the provisions of section 26 of the English Bankruptcy Act, respecting the redirection of debtor's letters, have, on the advice of the Bombay Chamber of Commerce, been extended to debtors' telegrams.

33. The saving of section 5 of the Statute commonly known as Bovill's Act) 28 & 29 Vic., c. 86) in section 40 (6) of the English Bankruptcy Act has been omitted from section 33 of the Bill, as there is no corresponding enactment in the law of British India.

34. It has been suggested by the Bengal Chamber of Commerce and the Calcutta Trades Association that the clause (section 37) respecting reputed ownership should be so drawn as to meet the contention of the Official Assignee in the case of *Gubboy* v. *Miller* (I. L. R. 6 Cal. 633). This suggestion raises a very difficult question, which has been left unsolved by the English Bankruptcy Act of 1883. The opinions of the authorities in India who specially considered the question in 1881, with reference to Mr. Pitt-Kennedy's Bill, may be summed up in the following remarks of Mr. Justice Pontifex on section 23 of 11 & 12 Vic., c. 21 :—

"The fact is that the clause, though extremely valuable in particular cases, is one very dangerous to meddle with. As it stands, it is beneficial. To alter it as proposed would, in my opinion, be most mischievous. It is impossible with justice to make it apply to every case, and it would be hazardous to attempt to define with particularity to what cases it should apply. In my opinion it should be left as it now stands"

If further legislation is required, it must, in the opinion of the Government of India, take the form of a Bills of Sale Act.

35. Sections 45 and 46 of the English Bankruptcy Act, being framed with reference to English forms of execution, could not be adopted in the Bill without modification. It has been thought (sections 38 and 39 of the Bill) that the course most in harmony at the same time with those sections of the English Act and with the analogies presented by the Code of Civil Procedure would be to make the point of time at which the attaching creditor's title becomes complete against the assignee the same as that at which, under section 295 of the Code, it becomes complete against rival decree-holders. It is hoped that this will afford a simple and equitable settlement of a point regarding which there has been some difficulty in connection with the existing insolvency law.

36. On the suggestion of Maharaja Sir Jotendro Mohun Tagore and Babu Doorga Churn Law, the provisions of section 45 of the Bill, with respect to the appropriation of pay or pension, have been made subject to the provisions of the Code of Civil Procedure and the Pensions Act, 1871.

37. The difference between section 48 (1) (*e*) of the Bill, defining the trustee's powers in respect of property to which the bankrupt is entitled "as tenant in tail or other owner of an estate of inheritance less than an estate in fee-simple," and the corresponding provision of the English Bankruptcy Act is explained by the peculiar position in which the owners of such estates are placed by section 2 of Act XXXI of 1854. The simplicity of that position makes it possible to dispense with all the provisions of the Act for the abolition of fines and recoveries, which are incorporated by reference in the English Bankruptcy Act with the exception of one, the substance of which, so far as it appears to be required, is embodied in sub-section (2) of section 48 of the Bill.

38. A Bankruptcy Court will have two entirely different kinds of money under its control, namely, (*a*) money held by it on account of estates before declaration of dividend, and (*b*) declared dividends awaiting distribution, the former being the property of estates and the latter the property of specific creditors. Section 64 recognizes this distinction, and requires the Court to keep a Bankruptcy Estates Account and a Bankruptcy Dividends Account, the former being an account of money held for estates and the latter of money removed from that account on declaration of dividends and held for creditors till their dividends are paid to them or, through their default, lapse to the Government (section 131).

Both the Accounts are to be kept by the Court with a Government treasury. It is considered desirable that, like moneys received by ordinary Civil Courts, money received on account of bankruptcy estates should be paid into a Government treasury, in order that there may be the security of the Government for safe custody, and that the safeguards against the occurrence of error provided by the rules of the Government regarding payments from Government treasuries may be brought into operation. The expression "Government treasury" is so defined in section 135 as to include a Presidency Bank conducting treasury business for the Government.

39. Under the English Act of 1883, dividends on investments of money belonging to estates in bankruptcy are credited to the Government, and the Lord Chancellor is required to have regard to the amount thus derived in fixing the fees payable in respect of bankruptcy proceedings. It has been urged, and the Government of India is of opinion, that in this country, where bankruptcy proceedings are often necessarily more protracted than in

England, interest on investments should be paid to creditors. But in that case each investment must be made and held separately for each estate, any portion of the funds of which is invested, and investments should only be made when the sum available for investment is large enough to make the interest sensible in amount. Section 66 provides for investments being made on these conditions at the instance of the Court out of funds standing to the credit of estates in the Bankruptcy Estates Account. It is only under that Account that delay prejudicial to creditors can arise. After money has been transferred to the Bankruptcy Dividends Account, any person to whom a dividend is due has only to present his receipt to obtain it, and he should have no inducement, whether by the money lying at interest or in any other way, to postpone for a day his taking the money out of the custody of the Court.

40. Section 79, sub-section (1), clause (*c*), of the Bill has been so drawn that jurisdiction in bankruptcy may be conferred in a limited class of cases on Courts beyond the Presidency-towns, as, for instance, on the High Court of Judicature for the North-Western Provinces or the Chief Court of the Punjab, with respect to proceedings under chapter XX of the Code of Civil Procedure, where, by reason of the sum involved or the difficulty of winding up the estate under the Code, the Court may see fit to withdraw the proceedings from the Court in which they are pending and deal with them under proviso (*i*) to section 4, sub-section (1).

41. Section 85 is based on the section of the English Act which permits the delegation of subordinate jurisdiction in certain matters to Registrars in bankruptcy. It seems that this jurisdiction may be most conveniently exercised by a Judge of the Small Cause Court in Madras and by officers of the High Court in Calcutta and Bombay.

42. Under section 88 of the Bill the appeal from a single Judge of a Presidency High Court and the Recorder of Rangoon exercising bankruptcy jurisdiction lies as at present. The appeal from any Mufassal Courts of Bankruptcy which may be established will in most cases lie to the High Court of the province.

43. Section 101 follows the English Act in fixing the limit for small bankruptcies at Rupees 3,000. But the opinion has been expressed by some of the authorities who have advised on the draft of last year that the limit should be raised to Rupees 5,000 or even to Rupees 10,000. The Government of India itself inclines to that opinion, but deems it advisable to adhere to the limit prescribed in the English Act until the matter can be further considered in the light of the criticisms on the present Bill.

44. Part VIII of the Bill is taken from the English Debtors Act, 1869, as amended by the Bankruptcy Act, 1883. It embodies those full and strong powers for the arrest and punishment of fraudulent debtors and creditors which are the essential adjuncts of every proper law of bankruptcy. It is proposed, when a suitable occasion presents itself, to amend the Code of Criminal Procedure so as to give a Bankruptcy Court a power to commit offenders for trial similar to that which is conferred on the English Bankruptcy Courts by section 165 of the Act of 1883.

45. With respect to the suggestion that certain additional offences should be created by Part VIII of the Bill, it will be found that the Bill or the Indian Penal Code covers most, if not all, of the acts and omissions for which it has been proposed that further provision should be made.

46. Section 110 of the Bill provides that a married woman shall, in respect of her separate property (if any), be subject to the Act in the same way as if she were unmarried. The restriction in the corresponding provision, section 1 (5), of the English Married Women's Property Act, 1882, which confines it to the case of a woman carrying on a trade separately from her husband, has been omitted, because the vast majority of women to whom the Bill will be applicable stand either under sections 4 and 44 of the Indian Succession Act or under their personal laws on a footing altogether different from that of married women in England.

The phrase "separate property," it may be observed, is used in the wide sense in which it is used in the Indian Married Women's Property Act, 1874.

47. Section 130 provides, among other matters, for the payment into the Bankruptcy Courts of unclaimed dividends and other undistributed money remaining in the hands or under the control of assignees under the 11 & 12 Vic., c. 21, after the passing of the proposed Act.

The unclaimed dividends are of two classes, namely, dividends belonging to creditors who have proved their debts, and dividends reserved for creditors who have not done so.

With respect to dividends of the first class, they are, as the late Chief Justice of Bengal has said, the property of the creditors for whom they have been set apart, or of their representatives, just as much as money appropriated to a person interested in an administration suit belongs to him or his representative.

The case of dividends of the second class is different, and it is proposed to provide for them by section 133 of the Bill. With respect to this class of dividends, Mr. Turner, the Official Assignee at Bombay, has observed as follows :—

"The other class of unclaimed dividends, which amounts probably to some two or more lakhs of rupees, has arisen in Bombay partly from there being no provision in the Act 11 and 12 Vic., c. 21, section 41 (similar to that in the present proposed Act, section 51), for the declaration of dividends only among creditors who "have proved their debts."* A practice therefore grew up in the office of the Official Assignee of declaring dividends calculated on the total amount entered in respect of claims, whether partially secured or not, and only adjusting the claims when creditors came to receive payment of the dividend declared. And it must be noticed that this practice had one great practical advantage, inasmuch as such partially secured creditors generally held goods on the way to Europe, and it could not be ascertained, till such goods were actually put on the European market, what the loss (if any) would be. And as creditors in their own interest as well as that of the estate would frequently hold such goods for a considerable time, it would have caused great delay in declaring dividends to wait until such creditors were in a position to adjust and prove their claims. But in many cases the result was that such creditors, when the account-sales were received, did not find it worth their while to prove their claims at all, and in such cases the dividend calculated on the whole original debt, as entered in the schedule, still remains unclaimed.

* No unclaimed dividends of this class can arise under the proposed new Act (see section 55).

"Formerly, in the older estates, proceedings were taken under the old Act, XXVII of 1841, to strike such claims off the schedules, but of late years it has been considered that that process could not now be legally carried out."

48. Section 134 is designed to meet the suggestion of the Acting Prothonotary and the Official Assignee of Bombay that the Act itself, and not the rules under it, should disallow claims to any lien on debtors' books, and the suggestion of the Bombay Chamber of Commerce that the Act should provide for the free access of creditors to those books.

49. Section 136 (3) of the Bill provides that, notwithstanding the repeal of the existing law, all proceedings pending under it at the time when the new Act comes into operation shall be disposed of as if that Act had not been passed. This is the course taken in respect of pending proceedings by the English Act, and, having regard to the extent of the change to be made in the law, it seems the only practicable course.

50. Rules 18 to 21 of the Second Schedule, regarding the taking of mortgagees' accounts and the sale of mortgaged property, have been inserted on the suggestion of Mr. Macgregor, the Official Assignee at Calcutta. These rules, which are frequently followed in this country, are substantially the same as those issued by Lord Loughborough in 1794, and the fact that they have been retained, with slight alterations, under the many Bankruptcy Acts passed in England since that date, is strong evidence of their utility.

51. It has been suggested that certain privileges should be accorded to the Official Assignee as a party to legal proceedings. But he will be a public officer within the meaning of section 2 of the Code of Civil Procedure, and, as such, entitled to the protection given to public officers by chapter XXVII of that Code.

52. It has been objected that in certain circumstances the time limited by the draft of 1885 for doing some acts and things under the proposed Act would be found to be inconveniently short. In some cases the time has now been extended, and it is believed that section 89, sub-section (4), will enable the Courts to prevent hardship in the exceptional cases to which the time as now limited may prove inapplicable.

C. P. ILBERT.

The 14th May 1886.

COLLECTION OF PAPERS REGARDING THE BANKRUPTCY BILL REFERRED TO IN THE STATEMENT OF OBJECTS AND REASONS.

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Extract, paragraphs 1 to 10, of Despatch from the Government of India, to Her Majesty's Secretary of State for India, dated the 12th June 1885.

With reference to Your Lordship's despatch No. 24 (Judicial), dated 14th of August last, we have the honor to submit herewith copies of a Bill (with the Objects and Reasons for the same) which has been prepared in our Legislative Department to adapt the English Bankruptcy Act, 1883, to Indian circumstances.

2. In exercise of the discretion left to us by paragraph 4 of Your Lordship's despatch, we have thought it well to make the measure applicable by its own vigor, not only to the town of Rangoon, but also to those of Bassein, Moulmein, and Akyab, in which, as well as in Rangoon, the Presidency-town Insolvency Law has been for some years in force.

3. As regards the details of the measure, the material particulars in which it differs from the English Act are so fully explained in the Statement of Objects and Reasons that we deem it unnecessary to trouble Your Lordship with any further observations upon them.

4. As regards the form of the Parliamentary legislation required to give our Act operation in certain respects beyond the limits of British India, the proposal made in paragraph 27 of our despatch of the 5th May 1884 was that we should pass our Act and that then an Act of Parliament should be passed extending such of its provisions as ought to apply beyond the limits of British India. On a further consideration of the point, however, we have come to the conclusion that the more convenient course—in fact, the only convenient course—would be that an Act of Parliament should be passed conferring upon the Governor-General's Council the extended powers required for the object in view, and that our legislation should then proceed here in exercise of those powers. We are led to this conclusion chiefly by the consideration that, if the course we originally proposed were adopted, we should, on almost every occasion on which a necessity for amending our Act arose, find ourselves beset by difficulties of a nature similar to those which present themselves in connection with the amendment of the present Indian Insolvency Act,* and which are fully described in paragraph 25 of the despatch last referred to.

* 11 & 12 Vic., c. 21.

5. Assuming that Your Lordship will agree with us on this point, we have, as requested by Your Lordship, had prepared and forward herewith (annexed to the Objects and Reasons of the Bill) two drafts of enabling Acts of Parliament, either of which we believe would put the Governor-General's Council in a position to deal with the subject in an adequate manner.

Of these, we give the preference to that marked No. I, which, following more closely the precedents presented by section 288 of the Merchant Shipping Act, 1854,† and the Indian Marine Act, 1885,‡ confers the requisite powers in wider terms, and has further the merit of being the shorter of the two; but if the generality of its provisions should be deemed an objection, we should be prepared to accept an Act framed on the lines of the draft No. II. This latter attempts to specify with some particularity the several matters in respect of which extended powers are conferred on the Indian Legislature; and though we have every hope that it would accomplish its purpose, we need hardly observe that a draft in this form cannot be so confidently relied on as one conceived in more general terms.

† 17 & 18 Vic., c. 104.
‡ 47 & 48 Vic., c. 38.

6. On collating either of these drafts with the draft Bill which we propose to introduce here, Your Lordship will perceive that while the Indian Bankruptcy Courts would be empowered, through the medium of their adjudications, discharges, judgments, &c., to affect matters beyond the limits of British India, their direct action will, as explained in the Statement of Objects and Reasons, be strictly confined to this country.

To supply what might thus appear to be a defect in the system we rely on section 118 of the English Bankruptcy Act, 1883, which we assume will enable the Indian Bankruptcy Courts to invoke the aid of the English Bankruptcy Courts, and that not only by specific requisitions directed to a particular stage of a particular matter, but also in a more general form, as, for example, by requesting them to entertain all applications of a certain class which may be made to them on behalf of an Indian official receiver or trustee.

7. The local extent clause of the Bill to be introduced here is, as Your Lordship will observe, drawn on the assumption that the Parliamentary legislation will take the form indicated in the draft No. I. It would be altered in the opposite event.

8. In paragraph 27 of our despatch already referred to we said that we thought that the Bill to be submitted to Parliament should contain provisions relating to concurrent bankruptcies somewhat similar to those contained in section 77 *et seq.* of the present Act (11 & 12 Vic., c. 21), and we should have no great objection to such provisions being inserted if Your Lordship should be advised that they are essential; but it seems to us, on further consideration, that it would be desirable to dispense, if possible, with so serious a complication, and we are inclined to think that the rare cases (none have been brought to our notice) in which bankruptcy proceedings are instituted simultaneously in a Court in England and in a Court in this country might be met by one Court surrendering the case to the other. The provisions of section 13 of our local Bill, giving power to annul a receiving order, and those of section 30, giving power to annul an adjudication, will, we conceive, confer upon the Courts in this country the powers requisite for this; but perhaps some extension of the corresponding powers conferred by the Bankruptcy Act, 1883, on the English Courts would be necessary.

9. The only further observation we have to make regarding the draft Acts of Parliament forwarded to Your Lordship is that both are restricted to what we consider necessary for our own purposes. If it is desired, for instance, that bankruptcy in this country should be a disqualification for offices in England, or if it is thought that the 13th and 30th sections of our local Bill, to which we have just referred, are not sufficient, but that it is necessary to confer on Courts of Bankruptcy in England a power of staying proceedings in the Bankruptcy Courts of this country or removing a case pending here, the requisite provisions will doubtless be inserted in England.

10. We have circulated the draft Bill with a view to obtaining the opinion of the High Courts, commercial bodies and others, but we do not propose to take any step regarding it in the Legislative Council until we hear from Your Lordship in reply to this despatch. We desire to introduce the Bill at the opening of the next Calcutta session, and as we should before that time be in possession of the views of all those interested in, or qualified to form an opinion on, the measure, we might hope to pass it through all the stages at which discussion would be likely to arise before the return of the Government to Simla next year. If the requisite Parliamentary legislation should not be complete by that date, we should defer the final stage of our Bill.

* * * * *

Draft Bill referred to in paragraph 1 of Despatch to Her Majesty's Secretary of State, No. 32, dated the 12th June 1885.

DRAFT OF
A
BILL
TO

Amend and consolidate the Law of Bankruptcy and Insolvency in British India.

WHEREAS it is expedient to amend and consolidate the law relating to bankruptcy and insolvency; It is hereby enacted as follows :—

Preliminary.

Short title and commencement.

1. (1) This Act may be cited as the Indian Bankruptcy Act, 1885.

(2) It shall, except as by this Act otherwise provided, come into force on such date as the Governor-General in Council may, by notification in the official Gazette, fix in this behalf, which date is in this Act referred to as the commencement of this Act.

Local extent.

2. Except as otherwise expressly provided by this Act, the provisions of this Act shall have the same local extent as those of the Bankruptcy Act, 1883:

Provided that the following shall not extend to England, namely :—

Sections 39 and 40 ;
Section 44, sub-section (2) ;
Section 48 ;
Section 49, sub-section (1), clause (*e*), and sub-section (2) ;
Section 62, sub-section (2).

PART I.

PROCEEDINGS FROM ACT OF BANKRUPTCY TO DISCHARGE.

Acts of Bankruptcy.

Acts of bankruptcy.

3. (1) A debtor commits an act of bankruptcy in each of the following cases :—

(*a*) if in British India or elsewhere he makes a conveyance or assignment of his property to a trustee or trustees for the benefit of his creditors generally ;

(*b*) if in British India or elsewhere he makes a fraudulent conveyance, gift, delivery or transfer of his property, or of any part thereof ;

(*c*) if in British India or elsewhere he makes any conveyance or transfer of his property or any part thereof, or creates any charge thereon which would, under this or any other enactment for the time being in force, be void as a fraudulent preference if he were adjudged bankrupt ;

(*d*) if with intent to defeat or delay his creditors he does any of the following things, namely, departs out of British India, or being out of British India remains out of British India or departs from his dwelling-house, or otherwise absents himself, or begins to keep house ;

(*e*) if execution issued against him has been levied by sale of his property in any civil proceeding in British India ;

(*f*) if he files in the Court a declaration of his inability to pay his debts or presents a bankruptcy petition against himself ;

(*g*) if a creditor has obtained in British India a decree against him for any amount, and, execution thereof not having been stayed, has served on him in British India, or, by leave of the Court, elsewhere, a bankruptcy notice under this Act, requiring him to pay the judgment-debt in accordance with the terms of the decree, or to secure or compound for it to the satisfaction of the creditor or the Court, and he does not, within *fifteen* days after service of the notice in case the service is effected in British India, and in case the service is effected elsewhere then within the time limited in that behalf by the order giving leave to effect the service, either comply with the requirements of the notice, or satisfy the Court that he has a counter-claim, set-off or cross demand which equals or exceeds the amount of the decree and which he could not set up in the suit in which the decree was obtained ;

(*h*) if the debtor gives notice to any of his creditors that he has suspended, or that he is about to suspend, payment of his debts.

(2) A bankruptcy notice under this Act shall be in the prescribed form, and shall state the consequences of non-compliance therewith, and shall be served in the prescribed manner.

Receiving Order.

Jurisdiction to make receiving order.

4. Subject to the conditions hereinafter specified, if a debtor commits an act of bankruptcy, the Court may, on a bankruptcy petition being presented either by a creditor or by the debtor, make an order, in this Act called a receiving order, for the protection of the estate.

Conditions on which creditor may petition.

5. (1) A creditor shall not be entitled to present a bankruptcy petition against a debtor unless—

(*a*) the debt owing by the debtor to the petitioning creditor, or, if two or more creditors join in the petition, the aggregate amount of debts owing to the several petitioning creditors, amounts to five hundred rupees ; and

(*b*) the debt is a liquidated sum, payable either immediately or at some certain future time ; and

(c) the act of bankruptcy on which the petition is grounded has occurred within three months before the presentation of the petition; and

(d) the debtor is in prison within the local limits of the jurisdiction of the Court under an order of a Civil Court for non-payment of money, or has within a year before the date of the presentation of the petition ordinarily resided or had a dwelling-house or place of business within those limits.

(2) If the petitioning creditor is a secured creditor, he must in his petition either state that he is willing to give up his security for the benefit of the creditors in the event of the debtor being adjudged bankrupt, or give an estimate of the value of his security. In the latter case he may be admitted as a petitioning creditor to the extent of the balance of the debt due to him, after deducting the value so estimated in the same manner as if he were an unsecured creditor.

Proceedings and order on creditor's petition.

6. (1) A creditor's petition shall be verified by affidavit of the creditor, or of some person on his behalf having knowledge of the facts, and served in the prescribed manner.

(2) At the hearing the Court shall require proof of the debt of the petitioning creditor, of the service of the petition, and of the act of bankruptcy, or, if more than one act of bankruptcy is alleged in the petition, of some one of the alleged acts of bankruptcy, and if satisfied with the proof may make a receiving order in pursuance of the petition.

(3) If the Court is not satisfied with the proof of the petitioning creditor's debt, or of the act of bankruptcy, or of the service of the petition, or is satisfied by the debtor that he is able to pay his debts or that for other sufficient cause no order ought to be made, the Court may dismiss the petition.

(4) When the act of bankruptcy relied on is non-compliance with a bankruptcy notice to pay, secure or compound for a judgment-debt, the Court may, if it thinks fit, stay or dismiss the petition on the ground that an appeal is pending from the decree

(5) Where the debtor appears on the petition, and denies that he is indebted to the petitioner, or that he is indebted to such an amount as would justify the petitioner in presenting a petition against him, the Court, on such security (if any) being given as the Court may require for payment to the petitioner of any debt which may be established against him in due course of law, and of the costs of establishing the debt, may, instead of dismissing the petition stay all proceedings on the petition for such time as may be required for trial of the question relating to the debt.

(6) Where proceedings are stayed, the Court may, if by reason of the delay caused by the stay of proceedings or for any other cause it thinks just, make a receiving order on the petition of some other creditor, and shall thereupon dismiss, on such terms as it thinks just, the petition in which proceedings have been stayed as aforesaid.

(7) A creditor's petition shall not, after presentment, be withdrawn without the leave of the Court.

Debtor's petition and order thereon.

7. (1) A debtor shall not be entitled to present a bankruptcy petition against himself unless he is in prison within the local limits of the jurisdiction of the Court under an order of a Civil Court for non payment of money, or has within a year before the date of the presentation of the petition ordinarily resided or had a dwelling house or place of business within those limits.

(2) A debtor's petition shall allege that the debtor is unable to pay his debts, and the presentation thereof shall be deemed an act of bankruptcy without the previous filing by the debtor of any declaration of inability to pay his debts; and, if the debtor proves that he is entitled to present the petition, the Court shall thereupon make a receiving order.

(3) A debtor's petition shall not, after presentment, be withdrawn without the leave of the Court.

Effect of receiving order.

8. (1) On the making of a receiving order, the official receiver shall be thereby constituted receiver of the property of the debtor, and thereafter, except as directed by this Act, no creditor to whom the debtor is indebted in respect of any debt provable in bankruptcy shall have any remedy against the property or person of the debtor in respect of the debt, or shall commence any suit, action or other legal proceedings unless with the leave of the Court and on such terms as the Court may impose.

(2) But this section shall not affect the power of any secured creditor to realize or otherwise deal with his security in the same manner as he would have been entitled to realize or deal with it if this section had not been passed.

Discretionary powers as to appointment of receiver and stay of proceedings.

9. (1) The Court may, if it is shown to be necessary for the protection of the estate, at any time after the presentation of a bankruptcy petition and before a receiving order is made, appoint the official receiver to be interim receiver of the property of the debtor, or of any part thereof, and direct him to take immediate possession thereof or of any part thereof.

(2) The Court may at any time after the presentation of a bankruptcy petition stay any suit, action, execution or other legal process pending in any Court in British India against the property or person of the debtor, and any Court in which proceedings are pending against a debtor may, on proof that a bankruptcy petition has been presented by or against the debtor, either stay the proceedings or allow them to continue on such terms as it may think just.

Service of order staying proceedings.

10. When the Court makes an order staying any suit, action or proceeding or staying proceedings generally, the order may be served by sending a copy thereof, under the seal of the Court, by prepaid post letter to the Court before which the proceeding is pending.

Power to appoint special manager.

11. (1) The official receiver of a debtor's estate may, on the application of any creditor or creditors, and if satisfied that the nature of the debtor's estate or business or the interests of the creditors generally require the appointment of a special manager of the estate or business other than the official receiver, appoint a manager thereof accordingly to act until a trustee is appointed, and with such powers (including any of the powers of a receiver) as may be entrusted to him by the official receiver.

(2) The special manager shall give security and account in such manner as the Court may direct.

(3) The special manager shall receive such remuneration as the creditors may by resolution at an ordinary meeting determine, or, in default of any such resolution, as may be prescribed.

Advertisement of receiving order.

12. Notice of every receiving order, stating the name, address and description of the debtor, the date of the order, the Court by which the order is made and the date of the petition, shall be published in the prescribed manner.

Power to Court to annul receiving order in certain cases.

13. If in any case where a receiving order has been made on a bankruptcy petition it appears to the Court by which the order was made upon an application by the official receiver, or any creditor or other person interested, that a majority of the creditors in number and value are resident in the United Kingdom or in any other part of Her Majesty's dominions beyond the limits of British India, or that from the situation of the property of the debtor, or other cause, his estate and effects ought to be distributed among the creditors under the Bankrupt or Insolvent Laws of that part of Her Majesty's dominions, the said Court, after such inquiry as to it may seem fit, may rescind the receiving order and stay all proceedings on, or dismiss, the petition upon such terms, if any, as the Court may think fit.

Proceedings consequent on Order.

First and other meetings of creditors.

14. (1) As soon as may be after the making of a receiving order against a debtor, a general meeting of his creditors (in this Act referred to as the first meeting of creditors) shall be held for the purpose of considering whether a proposal for a composition or scheme of arrangement shall be entertained, or whether it is expedient that the debtor shall be adjudged bankrupt, and generally as to the mode of dealing with the debtor's property.

(2) With respect to the summoning of and proceedings at the first and other meetings of creditors, the rules in the first schedule shall be observed.

Debtor's statement of affairs.

15. (1) Where a receiving order is made against a debtor, he shall make out and submit to the official receiver a statement of and in relation to his affairs in the prescribed form, verified by affidavit, and showing the particulars of the debtor's assets, debts and liabilities, the names, residences and occupations of his creditors, the securities held by them respectively, the dates when the securities were respectively given, and such further or other information as may be prescribed or as the official receiver may require.

(2) The statement shall be so submitted within the following times, namely:—

(i) if the order is made on the petition of the debtor, within three days from the date of the order;

(ii) if the order is made on the petition of a creditor, within seven days from the date of the order.

But the Court may, in either case, for special reasons, extend the time.

(3) If the debtor fails without reasonable execuse to comply with the requirements of this section, the Court may, on the application of the official receiver, or of any creditor, adjudge him bankrupt.

(4) Any person stating himself in writing to be a creditor of the bankrupt may, personally or by agent, inspect this statement at all reasonable times, and take any copy thereof or extract therefrom; but any person untruthfully so stating himself to be a creditor shall be punished, on the complaint of the trustee or official receiver, with imprisonment which may extend to three months, or with fine, or with both.

Public Examination of Debtor.

Public examination of debtor.

16. (1) Where the Court makes a receiving order it shall hold a public sitting, on a day to be appointed by the Court for the examination of the debtor, and the debtor shall attend thereat, and shall be examined as to his conduct, dealings, and property.

(2) The examination shall be held as soon as conveniently may be after the expiration of the time for the submission of the debtor's statement of affairs.

(3) The Court may adjourn the examination from time to time.

(4) Any creditor who has tendered a proof, or his representative authorized in writing, may question the debtor concerning his affairs and the causes of his failure.

(5) The official receiver, and a trustee if he is appointed before the conclusion of the examination, may take part therein.

(6) The Court may put such questions to the debtor as it may think expedient.

(7) The debtor shall be examined upon oath, and it shall be his duty to answer all such questions as the Court may put or allow to be put to him.

(8) Such notes of the examination as the Court thinks proper shall be taken down in writing, and shall be read over to and signed by the debtor, and may thereafter be used in evidence against him; they shall also be open to the inspection of any creditor at all reasonable times.

(9) When the Court is of opinion that the affairs of the debtor have been sufficiently investigated, it shall, by order, declare that his examination is concluded, but such order shall not be made until after the day appointed for the first meeting of creditors.

Composition or Scheme of Arrangement.

Power for creditors to accept and Court to approve composition or arrangement.

17. (1) The creditors may at the first meeting or any adjournment thereof, by special resolution, resolve to entertain a proposal for a composition in satisfaction of the debts due to them from the debtor, or a proposal for a scheme of arrangement of the debtor's affairs.

(2) The composition or scheme shall not be binding on the creditors unless it is confirmed by a resolution passed (by a majority in number representing three-fourths in value of all the creditors who have proved) at a subsequent meeting of the creditors, and is approved by the Court.

Any creditor who has proved his debt may assent to or dissent from the composition or scheme by a letter addressed to the official receiver in the prescribed form, and attested by a witness, so as to be received by the official receiver not later than the day preceding the said subsequent meeting, and any such creditor shall be taken as being present and voting at the meeting.

(3) The subsequent meeting shall be summoned by the official receiver by not less than seven days' notice, and shall not be held until after the public examination of the debtor is concluded. The notice shall state generally the terms of the proposal, and shall be accompanied by a report of the official receiver thereon.

(4) The debtor or the official receiver may, after the composition or scheme is accepted by the creditors, apply to the Court to approve it, and notice of the time appointed for hearing the application shall be given to each creditor who has proved.

(5) The Court shall, before approving a composition or scheme, hear a report of the official receiver as to the terms of the composition or scheme and

as to the conduct of the debtor, and any objections which may be made by or on behalf of any creditor.

(6) If the Court is of opinion that the terms of the composition or scheme are not reasonable, or are not calculated to benefit the general body of creditors, or in any case in which the Court is required under this Act where the debtor is adjudged bankrupt to refuse his discharge, the Court shall, or if any such facts are proved as would under this Act justify the Court in refusing, qualifying or suspending the debtor's discharge, the Court may, in its discretion, refuse to approve the composition or scheme.

(7) If the Court approves the composition or scheme, the approval may be testified by the seal of the Court being attached to the instrument containing the terms of the composition or scheme, or by the terms being embodied in an order of the Court.

(8) A composition or scheme accepted and approved in pursuance of this section shall be binding on all the creditors so far as relates to any debts due to them from the debtor and provable in bankruptcy.

(9) A certificate of the official receiver that a composition or scheme has been duly accepted and approved shall, in the absence of fraud, be conclusive as to its validity.

(10) The provisions of a composition or scheme under this section may be enforced by the Court in British India on application by any person interested, and an order of the Court made on the application may be executed as if it were a decree.

(11) If default is made in payment of any instalment due in pursuance of the composition or scheme, or if it appears to the Court, on satisfactory evidence, that the composition or scheme cannot in consequence of legal difficulties, or for any sufficient cause, proceed without injustice or undue delay to the creditors or to the debtor, or that the approval of the Court was obtained by fraud, the Court may, if it thinks fit, on application by any creditor, adjudge the debtor bankrupt, and annul the composition or scheme, but without prejudice to the validity of any sale, disposition or payment duly made, or thing duly done under or in pursuance of the composition or scheme. Where a debtor is adjudged bankrupt under this sub-section, any debt provable in other respects, which has been contracted before the date of the adjudication, shall be provable in the bankruptcy.

(12) If, under or in pursuance of a composition or scheme, a trustee is appointed to administer the debtor's property or manage his business, Part V of this Act shall apply to the trustee as if he were a trustee in a bankruptcy, and as if the terms "bankruptcy," "bankrupt" and "order of adjudication" included respectively a composition or scheme of arrangement, a compounding or arranging debtor and order approving the composition or scheme.

(13) Part III of this Act shall, so far as the nature of the case and the terms of the composition or scheme admit, apply thereto, the same interpretation being giving to the words "trustee," "bankruptcy," "bankrupt" and "order of adjudication" as in the last preceding sub-section.

(14) No composition or scheme shall be approved by the Court which does not provide for the payment in priority to other debts of all debts directed to be so paid in the distribution of the property of a bankrupt.

(15) The acceptance by a creditor of a composition or scheme shall not release any person who under this Act would not be released by an order of discharge if the debtor had been adjudged bankrupt.

Effect of composition or scheme.

18. Notwithstanding the acceptance and approval of a composition or scheme, such composition or scheme shall not be binding on any creditor so far as regards a debt or liability from which, under the provisions of this Act, the debtor would not be discharged by an order of discharge in bankruptcy, unless the creditor assents to the composition or scheme.

Adjudication of Bankruptcy.

Adjudication of bankruptcy.

19. (1) At the time of making a receiving order or at any time thereafter, the Court may, on the application of the debtor himself, adjudge him bankrupt. The application may be made orally and without notice.

(2) Where a receiving order is made against a debtor, then, if the creditors at the first meeting or any adjournment thereof by ordinary resolution resolve that the debtor be adjudged bankrupt, or pass no resolution, or if the creditors do not meet, or if a composition or scheme is not accepted or approved in pursuance of this Act within fourteen days after the conclusion of the examination of the debtor or such further time as the Court may allow, the Court shall adjudge the debtor bankrupt.

(3) When a receiving order is made and no creditors attend at the time and place appointed for the first meeting or one adjournment thereof, or if sufficient creditors do not attend then to pass a special resolution, or when the official receiver satisfies the Court that the debtor has absconded or that the debtor does not intend to propose a composition or scheme, the Court may, either on the application of a creditor or of the official receiver, forthwith adjudge the debtor bankrupt.

(4) When a debtor is adjudged bankrupt, his property shall become divisible among his creditors and shall vest in a trustee.

(5) Notice of every order adjudging a debtor bankrupt, stating the name, address and description of the bankrupt, the date of the adjudication and the Court by which the adjudication is made, shall be published in the prescribed manner, and the date of the order shall, for the purposes of this Act, be the date of the adjudication.

Appointment of trustee.

20. (1) The official receiver shall be the trustee of the property of the bankrupt unless some other person is appointed trustee under the provisions next hereinafter contained.

(2) Where a debtor is adjudged bankrupt, or the creditors have resolved that he be adjudged bankrupt, and the Court having regard to the value of the property or for any other reason declares that the appointment of a person other than the official receiver as trustee is desirable, the creditors may, by ordinary resolution, appoint some fit person, whether a creditor or not, to fill the office of trustee of the property of the bankrupt; or they may resolve to leave his appointment to the committee of inspection hereinafter mentioned.

(3) The person so appointed shall give security in manner prescribed to the satisfaction of the Court, and the Court, if satisfied with the security, shall certify that his appointment has been duly made, unless it disapproves of the appointment on the ground that it has not been made in good faith by a majority in value of the creditors voting, or that the person appointed is not fit to act as trustee, or that his connection with or relation to the bankrupt or his estate or any particular creditor makes it difficult for him to act with impartiality in the interests of the creditors generally.

(4) The appointment of a trustee shall take effect as from the date of the certificate.

(5) If a declaration is made by the Court under sub-section (2) and a trustee is not appointed by the creditors within four weeks from the date of the declaration, or, if the declaration precedes the adjudication, from the date of the adjudication, or, in the event of negotiations for a composition or scheme being pending at the expiration of those four weeks, then within seven days from the close of those negotiations by the refusal of the creditors to accept, or of the Court to approve, the composition or scheme, the official receiver shall report the matter to the Court; and thereupon the Court may, if it thinks fit, appoint some fit person to be trustee of the bankrupt's property, and shall certify the appointment if made.

(6) Provided that the creditors or the committee of inspection (if so authorized by resolution of the creditors) may, at any subsequent time, if they think fit, appoint a trustee, and on the appointment being made and certified, the person appointed shall become trustee in the place of the person appointed by the Court.

(7) When a debtor is adjudged bankrupt after the first meeting of creditors has been held, and a trustee has not been appointed prior to the adjudication, the official receiver shall, if a declaration has been made by the Court under sub-section (2), forthwith summon a meeting of creditors for the purpose of appointing a trustee.

Committee of inspection.

21. (1) In any case in which a declaration is made under section 20, sub-section (2), and with the permission of the Court in any other case, the creditors qualified to vote may at their first or any subsequent meeting, by resolution, appoint from among the creditors qualified to vote, or the holders of general proxies or general powers-of-attorney from such creditors, a committee of inspection for the purpose of superintending the administration of the bankrupt's property by the trustee. The committee of inspection shall consist of not more than five nor less than three persons.

(2) The committee of inspection shall meet at such times as they from time to time appoint, and, failing such appointment, at least once a month; and the trustee or any member of the committee may also call a meeting of the committee as and when he thinks necessary.

(3) The committee may act by a majority of their members present at a meeting, but shall not act unless a majority of the committee are present at the meeting.

(4) Any member of the committee may resign his office by notice in writing signed by him, and delivered to the trustee.

(5) If a member of the committee becomes bankrupt, or compounds or arranges with his creditors, or is absent from five consecutive meetings of the committee, his office shall thereupon become vacant.

(6) Any member of the committee may be removed by an ordinary resolution at any meeting of creditors, of which seven days' notice has been given, stating the object of the meeting.

(7) On a vacancy occurring in the office of a member of the committee, the trustee shall forthwith summon a meeting of creditors for the purpose of filling the vacancy, and the meeting may, by resolution, appoint another creditor or other person eligible as above to fill the vacancy.

(8) The continuing members of the committee, provided there be not less than two such continuing members, may act notwithstanding any vacancy in their body; and where the number of members of the committee of inspection is for the time being less than five, the creditors may increase that number so that it do not exceed five.

(9) If there is no committee of inspection, any act or thing or any direction or permission by this Act authorized or required to be done or given by the committee may be done or given by the Court on the application of the trustee.

Power to accept composition or scheme after bankruptcy adjudication.

22. (1) Where a debtor is adjudged bankrupt, the creditors may, if they think fit, at any time after the adjudication, by special resolution, resolve to entertain a proposal for a composition in satisfaction of the debts due to them under the bankruptcy, or for a scheme of arrangement of the bankrupt's affairs; and thereupon the same proceedings shall be taken and the same consequences shall ensue as in the case of a composition or scheme accepted before adjudication.

(2) If the Court approves the composition or scheme, it may make an order annulling the bankruptcy and vesting the property of the bankrupt in him or in such other person as the Court may appoint, on such terms, and subject to such conditions, if any, as the Court may declare.

(3) If default is made in payment of any instalment due in pursuance of the composition or scheme, or if it appears to the Court that the composition or scheme cannot proceed without injustice or undue delay, or that the approval of the Court was obtained by fraud, the Court may, if it thinks fit, on application by any person interested, adjudge the debtor bankrupt, and annul the composition or scheme, but without prejudice to the validity of any sale, disposition or payment duly made or thing duly done, under or in pursuance of the composition or scheme. Where a debtor is adjudged bankrupt under this sub-section, all debts, provable in other respects, which have been contracted before the date of such adjudication shall be provable in the bankruptcy.

Control over Person and Property of Debtor.

Duties of debtor as to discovery and realization of property.

23. (1) Every debtor against whom a receiving order is made shall, unless prevented by sickness or other sufficient cause, attend the first meeting of his creditors, and shall submit to such examination and give such information as the meeting may require.

(2) He shall give such inventory of his property, such list of his creditors and debtors, and of the debts due to and from them respectively, submit to such examination in respect of his property or his creditors, attend such other meetings of his creditors, wait at such times on the official receiver, special manager or trustee, execute such powers-of-attorney, conveyances, deeds and instruments, and generally do all such acts and things in relation to his property and the distribution of the proceeds amongst his creditors as may be reasonably required by the official receiver, special manager or trustee, or may be prescribed by general rules, or be directed by the Court by any special order or orders made in reference to any particular case, or made on the occasion of any special application by the official receiver, special manager, trustee or any creditor or person interested.

(3) He shall, if adjudged bankrupt, aid, to the utmost of his power, in the realization of his property and the distribution of the proceeds among his creditors.

(4) If a debtor wilfully fails to perform the duties imposed on him by this section, or to deliver up possession of any part of his property, which is divisible amongst his creditors under this Act, and which is for the time being in his possession or under his control, to the official receiver or to the trustee, or to any person authorized by the Court to take possession of it, he shall, in addition to any

other punishment to which he may be subject, be guilty of a contempt of Court, and may be punished accordingly.

Arrest of debtor under certain circumstances.

24. (1) The Court may, by warrant addressed to any police-officer or prescribed officer of the Court, cause a debtor to be arrested in British India, and any books, papers, money and goods in his possession there to be seized, and him and them to be safely kept as prescribed until such time as the Court may order under the following circumstances:—

(a) if, after a bankruptcy notice has been issued under this Act, or after presentation of a bankruptcy petition by or against him, it appears to the Court that there is probable reason for believing that he is about to abscond with a view of avoiding payment of the debt in respect of which the bankruptcy notice was issued, or of avoiding service of a bankruptcy petition, or of avoiding appearance to any such petition, or of avoiding examination in respect of his affairs, or of otherwise avoiding, delaying or embarrassing proceedings in bankruptcy against him;

(b) if, after presentation of a bankruptcy petition by or against him, it appears to the Court that there is probable cause for believing that he is about to remove his property with a view of preventing or delaying possession being taken of it by the official receiver or trustee, or that there is probable ground for believing that he has concealed or is about to conceal or destroy any of his property or any books, documents or writings which might be of use to his creditors in the course of his bankruptcy;

(c) if, after service of a bankruptcy petition on him, or after a receiving order is made against him, he removes any property in his possessi n above the value of fifty rupees without the leave of the official receiver or trustee;

(d) if, without good cause shown, he fails to attend any examination ordered by the Court:

Provided that no arrest upon a bankruptcy notice shall be valid and protected unless the debtor before or at the time of his arrest shall be served with such bankruptcy notice.

(2) No payment or composition made or security given after arrest made under this section shall be exempt from the provisions of the Act relating to fraudulent preferences.

Redirection of debtor's letters.

25. Where a receiving order is made against a debtor, the Court, on the application of the official receiver or trustee, may, from time to time, order that for such time, not exceeding three months, as the Court thinks fit, post letters addressed to the debtor at any place or places mentioned in the order for redirection shall be redirected, sent or delivered by the Postal authorities in British India to the official receiver, or the trustee, or otherwise as the Court directs, and the same shall be done accordingly.

Discovery of debtor's property.

26. (1) The Court may, on the application of the official receiver or trustee, at any time after a receiving order has been made against a debtor, summon before it the debtor or his wife, or any person known or suspected to have in his possession any property belonging to the debtor, or supposed to be indebted to the debtor, or any person whom the Court may deem capable of giving information respecting the debtor, his dealings or property; and the Court may require any such person to produce any documents in his custody or power relating to the debtor, his dealings or property.

(2) If any person so summoned, after having been tendered a reasonable sum, refuses to come before the Court at the time appointed, or refuses to produce any such document, having no lawful impediment made known to the Court at the time of its sitting and allowed by it, the Court may, by warrant, cause him if in British India to be apprehended and brought up for examination.

(3) The Court may examine on oath, either by word of mouth or by written interrogatories, any person so brought before it concerning the debtor, his dealings or property.

(4) If any person on examination before the Court admits that he is indebted to the debtor, the Court may, on the application of the official receiver or trustee, order him to pay to the receiver or trustee, at such time and in such manner as to the Court seems expedient, the amount admitted, or any part thereof, either in full discharge of the whole amount in question or not, as the Court thinks fit, with or without costs of the examination.

(5) If any person on examination before the Court admits that he has in his possession any property belonging to the debtor, the Court may, on the application of the official receiver or trustee, order him to deliver to the official receiver or trustee such property, or any part thereof, at such time, and in such manner, and on such terms as to the Court may seem just.

(6) The Court may, if it think fit, issue a commission for the examination beyond the limits of British India of any person who if in British India would be liable to be brought before it for examination under this section.

Discharge of Bankrupt.

Discharge of bankrupt.

27. (1) A bankrupt may, at any time after being adjudged bankrupt, apply to the Court for an order of discharge, and the Court shall appoint a day for hearing the application, but the application shall not be heard until the public examination of the bankrupt is concluded. The application shall be heard in open Court.

(2) On the hearing of the application, the Court shall take into consideration a report of the official receiver as to the bankrupt's conduct and affairs, and may either grant or refuse an absolute order of discharge, or suspend the operation of the order for a specified time, or grant an order of discharge subject to any conditions with respect to any earnings or income which may afterwards become due to the bankrupt, or with respect to his after-acquired property: Provided that the Court shall refuse the discharge in all cases where the bankrupt has committed any offence under this Act or under section 421, 422, 423, or 424 of the Indian Penal Code or any amendment thereof, and shall, on proof of any of the facts hereinafter mentioned, either refuse the order, or suspend the operation of the order for a specified time, or grant an order of discharge, subject to such conditions as aforesaid.

(3) The facts hereinbefore referred to are—

(a) that the bankrupt has omitted to keep such books of account as are usual and proper in the business carried on by him and as sufficiently disclose his business transactions and financial position within the three years immediately preceding his bankruptcy;

(*b*) that the bankrupt has continued to trade after knowing himself to be insolvent;

(*c*) that the bankrupt has contracted any debt provable in the bankruptcy without having at the time of contracting it any reasonable or probable ground of expectation (proof whereof shall lie on him) of being able to pay it;

(*d*) that the bankrupt has brought on his bankruptcy by rash and hazardous speculations or unjustifiable extravagance in living;

(*e*) that the bankrupt has put any of his creditors to unnecessary expense by a frivolous or vexatious defence to any action or suit properly brought against him;

(*f*) that the bankrupt has within three months preceding the date of the receiving order, when unable to pay his debts as they become due, given an undue preference to any of his creditors;

(*g*) that the bankrupt has on any previous occasion been adjudged bankrupt, or made under any enactment in force in any part of Her Majesty's dominions a composition or arrangement with his creditors;

(*h*) that the bankrupt has been guilty of any fraud or fraudulent breach of trust.

(4) For the purposes of this section the report of the official receiver shall be *primâ facie* evidence of the statements therein contained.

(5) Notice of the appointment by the Court of the day for hearing the application for discharge shall be published in the prescribed manner and sent fourteen days at least before the day so appointed to each creditor who has proved, and the Court may hear the official receiver and the trustee, and may also hear any creditor. At the hearing the Court may put such questions to the debtor and receive such evidence as it may think fit.

(6) The Court may, in making an order of discharge, pass a decree against the debtor in favor of the official receiver or trustee for any balance of the debts provable under the bankruptcy which is not satisfied at the date of his discharge; but in such case the decree shall not be executed without leave of the Court, which leave may be given on proof that the bankrupt has since his discharge acquired property or income available for payment of his debts

(7) A discharged bankrupt shall, notwithstanding his discharge, give such assistance as the trustee may require in the realization and distribution of such of his property as is vested in the trustee, and if he fails to do so, he shall be guilty of a contempt of Court; and the Court may also, if it thinks fit, revoke his discharge, but without prejudice to the validity of any sale, disposition or payment duly made or thing duly done subsequent to the discharge, but before its revocation.

Fraudulent settlements.

28. In either of the following cases; that is to say:—

(1) in the case of a settlement made before and in consideration of marriage where the settlor is not at the time of making the settlement able to pay all his debts without the aid of the property comprised in the settlement; or

(2) in the case of any covenant or contract made in consideration of marriage for the future settlement on or for the settlor's wife or children of any money or property wherein he had not at the date of his marriage any estate or interest (not being money or property of or in right of his wife);

if the settlor is adjudged bankrupt or compounds or arranges with his creditors, and it appears to the Court that such settlement, covenant or contract was made in order to defeat or delay creditors, or was unjustifiable having regard to the state of the settlor's affairs at the time when it was made, the Court may refuse or suspend an order of discharge or grant an order subject to conditions or refuse to approve a composition or arrangement, as the case may be, in like manner as in cases where the debtor has been guilty of fraud.

Effect of order of discharge.

29. (1) An order of discharge shall not release the bankrupt from any debt on a recognizance, nor from any debt with which the bankrupt may be chargeable at the suit of the Crown or of any person for any offence against an enactment relating to any branch of the public revenue, or at the suit of the sheriff or other public officer on a bail bond entered into for the appearance of any person prosecuted for any such offence; and he shall not be discharged from such excepted debts unless the Government certifies in writing its consent to his being discharged therefrom.

(2) An order of discharge shall not release the bankrupt from any debt or liability incurred by means of any fraud or fraudulent breach of trust to which he was a party, nor from any debt or liability whereof he has obtained forbearance by any fraud to which he was a party.

(3) An order of discharge shall release the bankrupt from all other debts provable in bankruptcy.

(4) An order of discharge shall be conclusive evidence of the bankruptcy, and of the validity of the proceedings therein; and in any proceedings that may be instituted against a bankrupt who has obtained an order of discharge in respect of any debt from which he is released by the order, the bankrupt may plead that the cause of action occurred before his discharge, and may give this Act and the special matter in evidence.

(5) An order of discharge shall not release any person who at the date of the receiving order was a partner or co-trustee with the bankrupt or was jointly bound or had made any joint contract with him, or any person who was surety or in the nature of a surety for him.

PART II.

ANNULMENT OF ADJUDICATION.

Power for Court to annul adjudication in certain cases.

30. (1) Where in the opinion of the Court a debtor ought not to have been adjudged bankrupt, or where it is proved to the satisfaction of the Court that the debts of the bankrupt are paid in full, or where proceedings are pending in the United Kingdom or any other part of Her Majesty's dominions beyond the limits of British India for the distribution of the estate and effects of the bankrupt among his creditors under the Bankrupt or Insolvent Laws of that part of Her Majesty's dominions, and it appears to the Court that the distribution ought to take place in that part of Her Majesty's dominions, the Court may, on the application of any person interested, by order, annul the adjudication.

(2) Where an adjudication is annulled under this section, all sales and dispositions of property and payments duly made, and all acts theretofore done, by the official receiver, trustee or other person acting under their authority, or by the Court, shall be valid, but the property of the debtor who was adjudged bankrupt shall vest in such person as the Court may appoint, or in default of any such appointment revert to the debtor for all his estate or interest therein on such

terms and subject to such conditions, if any, as the Court may declare by order.

(3) Notice of the order annulling an adjudication shall be forthwith published in the prescribed manner.

(4) For the purposes of this section any debt disputed by a debtor shall be considered as paid in full if the debtor enters into a bond, in such sum and with such sureties as the Court approves, to pay the amount to be recovered in any proceeding for the recovery of or concerning the debt, with costs; and any debt due to a creditor who cannot be found or cannot be identified shall be considered as paid in full if paid into Court.

PART III.

ADMINISTRATION OF PROPERTY.

Proof of Debts.

Description of debts provable in bankruptcy.

31. (1) Demands in the nature of unliquidated damages arising otherwise than by reason of a contract, promise or breach of trust shall not be provable in bankruptcy.

(2) A person having notice of any act of bankruptcy available against the debtor shall not prove under the order for any debt or liability contracted by the debtor subsequently to the date of his so having notice.

(3) Save as aforesaid, all debts and liabilities, present or future, certain or contingent, to which the debtor is subject at the date of the receiving order, or to which he may become subject before his discharge by reason of any obligation incurred before the date of the receiving order, shall be deemed to be debts provable in bankruptcy.

(4) An estimate shall be made by the trustee of the value of any debt or liability provable as aforesaid which by reason of its being subject to any contingency or contingencies, or for any other reason, does not bear a certain value.

(5) Any person aggrieved by any estimate made by the trustee as aforesaid may appeal to the Court.

(6) If, in the opinion of the Court, the value of the debt or liability is incapable of being fairly estimated, the Court may make an order to that effect, and thereupon the debt or liability shall, for the purposes of this Act, be deemed to be a debt not provable in bankruptcy.

(7) If, in the opinion of the Court, the value of the debt or liability is capable of being fairly estimated, the Court may direct the value to be assessed before the Court itself, and may give all necessary directions for this purpose, and the amount of the value when assessed shall be deemed to be a debt provable in bankruptcy.

(8) "Liability" shall for the purposes of this Act include any compensation for work or labor done, any obligation or possibility of an obligation to pay money or money's worth on the breach of any express or implied covenant, contract, agreement or undertaking, whether the breach does or does not occur, or is or is not likely to occur or capable of occurring before the discharge of the debtor, and generally it shall include any express or implied engagement, agreement or undertaking to pay, or capable of resulting in the payment of, money or money's worth, whether the payment is as respects amount fixed or unliquidated; as respects time, present or future, certain or dependent on any one contingency or on two or more contingencies; as to mode of valuation, capable of being ascertained by fixed rules or as matter of opinion.

Mutual credit and set-off.

32. Where there have been mutual credits, mutual debts or other mutual dealings between a debtor against whom a receiving order shall be made under this Act, and any other person proving or claiming to prove a debt under such receiving order, an account shall be taken of what is due from the one party to the other in respect of such mutual dealings, and the sum due from the one party shall be set off against any sum due from the other party, and the balance of the account, and no more, shall be claimed or paid on either side respectively; but a person shall not be entitled under this section to claim the benefit of any set-off against the property of a debtor in any case where he had at the time of giving credit to the debtor notice of an act of bankruptcy committed by the debtor and available against him.

Rules as to proof of debts.

33. With respect to the mode of proving debts, the right of proof by secured and other creditors, the admission and rejection of proofs, and the other matters referred to in the second schedule, the rules in that schedule shall be observed.

Priority of debts.

34. (1) In the distribution of the property of a bankrupt there shall be paid in priority to all other debts—

(*a*) all revenue, taxes, cesses, and rates, whether payable to Her Majesty, to any local authority or otherwise, due from the bankrupt at the date of the receiving order, and having become due and payable within twelve months next before such time;

(*b*) all wages or salary of any clerk or servant in respect of services rendered to the bankrupt during four months before the date of the receiving order, not exceeding five hundred rupees; and

(*c*) all wages of any laborer or workman, not exceeding five hundred rupees, whether payable for time or piece-work, in respect of services rendered to the bankrupt during four months before the date of the receiving order.

(2) The foregoing debts shall rank equally between themselves, and shall be paid in full, unless the property of the bankrupt is insufficient to meet them, in which case they shall abate in equal proportions between themselves.

(3) In the case of partners, the joint estate shall be applicable in the first instance in payment of their joint debts, and the separate estate of each partner shall be applicable in the first instance in payment of his separate debts. If there is a surplus of the separate estates, it shall be dealt with as part of the joint estate. If there is a surplus of the joint estate, it shall be dealt with as part of the respective separate estates in proportion to the right and interest of each partner in the joint estate.

(4) Subject to the provisions of this Act, all debts proved in the bankruptcy shall be paid *pari passu*.

(5) If there is any surplus after payment of the foregoing debts, it shall be applied in payment of interest from the date of the receiving order at the rate of four per centum per annum on all debts proved in the bankruptcy.

Preferential claim in case of apprenticeship.

35. (1) Where at the time of the presentation of the bankruptcy petition any person is apprenticed or is an articled clerk to the bankrupt, the adjudication of bankruptcy shall, if either bankrupt or apprentice or clerk gives notice in writing to the trustee to that effect, be a complete discharge of the contract of apprenticeship or articles of agreement; and if any money has been paid by or on behalf of the apprentice or clerk to the bankrupt as a fee, the trustee may, on the application of the apprentice or clerk, or of some person on this behalf, pay

such sum as the trustee, subject to an appeal to the Court, thinks reasonable, out of the bankrupt's property, to or for the use of the apprentice or clerk, regard being had to the amount paid by him or on his behalf, and to the time during which he served with the bankrupt under the contract or articles before the commencement of the bankruptcy, and to the other circumstances of the case.

(2) Where it appears expedient to a trustee, he may, on the application of any apprentice or articled clerk to the bankrupt, or any person acting on behalf of such apprentice or articled clerk, instead of acting under the preceding provisions of this section, transfer the contract of apprenticeship or articles of agreement to some other person.

Power to landlord to distrain for rent.

36. (1) The landlord or other person to whom any rent is due from the bankrupt may at any time, either before or after the commencement of the bankruptcy, exercise his right of distraint (if any) upon the property of the bankrupt for the rent due to him from the bankrupt, with this limitation, that if such distress for rent be levied after the commencement of the bankruptcy, it shall be available only for one year's rent accrued due prior to the date of the order of adjudication, but the landlord or other person to whom the rent may be due from the bankrupt may prove under the bankruptcy for the surplus due for which the distress may not have been available.

(2) For the purposes of this section the term "order of adjudication" shall be deemed to include an order for the administration of the estate of a deceased person who dies insolvent.

Property available for Payment of Debts.

Relation back of trustee's title.

37. The bankruptcy of a debtor, whether the same takes place on the debtor's own petition or upon that of a creditor or creditors, shall be deemed to have relation back to, and to commence at, the time of the act of bankruptcy being committed on which a receiving order is made against him, or, if the bankrupt is proved to have committed more acts of bankruptcy than one, to have relation back to, and to commence at, the time of the first of the acts of bankruptcy proved to have been committed by the bankrupt within three months next preceding the date of the presentation of the bankruptcy petition ; but no bankruptcy petition, receiving order or adjudication shall be rendered invalid by reason of any act of bankruptcy anterior to the debt of the petitioning creditor.

Description of bankrupt's property divisible amongst creditors.

38. The property of the bankrupt divisible amongst his creditors, and in this Act referred to as the property of the bankrupt, shall not comprise the following particulars :—

(1) property held by the bankrupt on trust for any other person ;

(2) the tools (if any) of his trade and the necessary wearing-apparel and bedding of himself, his wife and children, to a value, inclusive of tools and apparel and bedding, not exceeding two hundred rupees in the whole :

But it shall comprise the following particulars :—

(i) all such property as may belong to or be vested in the bankrupt at the commencement of the bankruptcy or may be acquired by or devolve on him before his discharge ;

(ii) the capacity to exercise and to take proceedings for exercising all such powers in or over or in respect of property as might have been exercised by the bankrupt for his own benefit at the commencement of his bankruptcy or before his discharge, except the right of nomination to a vacant ecclesiastical benefice ; and

(iii) all moveable property being, at the commencement of the bankruptcy, in the possession, order or disposition of the bankrupt, in his trade or business, by the consent and permission of the true owner, under such circumstances that he is the reputed owner thereof : Provided that things in action, other than debts due or growing due to the bankrupt in the course of his trade or business, shall not be deemed moveable property within the meaning of this section.

Effect of Bankruptcy on Antecedent Transactions.

Restriction of rights of creditor under execution.

39. (1) Where execution of a decree has issued against the property of a debtor, no person shall be entitled to the benefit of the execution against the trustee in bankruptcy of the debtor, except in respect of assets realized in the course of the execution by sale or otherwise before the date of the receiving order, and before notice of the presentation of any bankruptcy petition by or against the debtor, or of the commission of any available act of bankruptcy by the debtor, has been given to the Court executing the decree.

(2) Nothing in this section shall affect the rights of a mortgagee or encumbrancer of property against which a decree is executed.

Duties of Court executing decree as to goods taken in execution.

40. (1) Where execution of a decree has issued against any property of a debtor which is saleable in execution, and before the sale thereof notice is given to the Court executing the decree that a receiving order has been made against the debtor, the Court shall, on application, direct the property to be delivered to the official receiver or trustee under the order, but the costs of the execution shall be a charge on the property so delivered, and the official receiver or trustee may sell the property or an adequate part thereof for the purpose of satisfying the charge.

(2) An execution levied against the property of a debtor is not invalid by reason only of its being an act of bankruptcy, and a person who purchases the property in good faith under a sale in execution shall in all cases acquire a good title to them against the trustee in bankruptcy.

Avoidance of voluntary settlements.

41. (1) Any settlement of property not being a settlement made before and in consideration of marriage, or made in favor of a purchaser or incumbrancer in good faith and for valuable consideration, or a settlement made on or for the wife or children of the settlor of property which has accrued to the settlor after marriage in right of his wife, shall, if the settlor becomes bankrupt within two years after the date of the settlement, be void against the trustee in the bankruptcy, and shall, if the settlor becomes bankrupt at any subsequent time within ten years after the date of the settlement, be void against the trustee in the bankruptcy, unless the parties claiming under the settlement can prove that the settlor was at the time of making the settlement able to pay all his debts without the aid of the property comprised in the settlement, and that the interest

of the settlor in such property had passed to the trustee of such settlement on the execution thereof.

(2) Any covenant or contract made in consideration of marriage for the future settlement on or for the settlor's wife or children of any money or property wherein he had not at the date of his marriage any estate or interest, whether vested or contingent, in possession or remainder, and not being money or property or of in right of his wife, shall, on his becoming bankrupt before the property or money has been actually transferred or paid pursuant to the contract or covenant, be void against the trustee in the bankruptcy.

(3) "Settlement" shall for the purposes of this section include any conveyance or transfer of property.

Avoidance of preferences in certain cases.

42. (1) Every conveyance or transfer of property or charge thereon made, every payment made, every obligation incurred and every judicial proceeding taken or suffered by any person unable to pay his debts as they become due from his own money in favor of any creditor, or any person in trust for any creditor, with a view of giving such creditor a preference over the other creditors, shall, if the person making, taking, paying or suffering the same is adjudged bankrupt on a bankruptcy petition presented within three months after the date of making, taking, paying or suffering the same, be deemed fraudulent and void as against the trustee in the bankruptcy.

(2) This section shall not affect the rights of any person making title in good faith and for valuable consideration through or under a creditor of the bankrupt.

Protection of *bonâ fide* transactions without notice.

43. Subject to the foregoing provisions of this Act with respect to the effect of bankruptcy on an execution or attachment, and with respect to the avoidance of certain settlements and preferences, nothing in this Act shall invalidate in this case of a bankruptcy—

(*a*) any payment of the bankrupt to any of his creditors;

(*b*) any payment or delivery to the bankrupt;

(*c*) any conveyance or assignment by the bankrupt for valuable consideration;

(*d*) any contract, dealing or transaction by or with the bankrupt for valuable consideration:

Provided that both the following conditions are complied with, namely:—

(1) the payment, delivery, conveyance, assignment, contract, dealing or transaction, as the case may be, takes place before the date of the receiving order; and

(2) the person (other than the debtor) to, by or with whom the payment, delivery, conveyance, assignment, contract, dealing or transaction was made, executed or entered into, has not at the time of the payment, delivery, conveyance, assignment, contract, dealing or transaction notice of any available act of bankruptcy committed by the bankrupt before that time.

Realization of Property.

Possession of property by trustee.

44. (1) The trustee shall, as soon as may be, take possession of the deeds, books and documents of the bankrupt, and all other parts of his property capable of manual delivery.

(2) The trustee shall, in relation to and for the purpose of acquiring or retaining possession of the property of the bankrupt, be in the same position as if he were a receiver of the property appointed under section 503 of the Code of Civil Procedure, and shall have such of the powers conferable on a receiver under that section as may be specified in general rules, and the Court may on his application enforce such acquisition or retention accordingly.

(3) Where any part of the property of the bankrupt consists of stock, shares in ships, shares or any other property transferable in the books of any company, office or person, the trustee may exercise the right to transfer the property to the same extent as the bankrupt might have exercised it if he had not become bankrupt.

(4) Where any part of the property of the bankrupt consists of things in action, such things shall be deemed to have been duly assigned to the trustee.

(5) Any treasurer or other officer, or any banker, attorney or agent of a bankrupt, shall pay and deliver to the trustee all money and securities in his possession or power, as such officer, banker, attorney or agent, which he is not by law entitled to retain as against the bankrupt or the trustee. If he does not, he shall be guilty of a contempt of Court, and may be punished accordingly on the application of the trustee.

Seizure of property of bankrupt.

45. Any person acting under warrant of the Court may seize any part of the property of a bankrupt in the custody or possession of the bankrupt, or of any other person in British India, and with a view to such seizure may break open any house, building or room of the bankrupt where the bankrupt is supposed to be, or any building or receptacle of the bankrupt where any of his property is supposed to be; and where the Court is satisfied that there is reason to believe that property of the bankrupt is concealed in a house or place in British India not belonging to him, the Court may, if it thinks fit, grant a search-warrant to any Police-officer or officer of the Court, who may execute it according to its tenor.

Appropriation of portion of pay or salary to creditors.

46. (1) Where a bankrupt is an officer of the army or navy or of Her Majesty's Indian marine service, or an officer or clerk or otherwise employed or engaged in the civil service of the Crown, the trustee shall receive for distribution amongst the creditors so much of the bankrupt's pay or salary as the Court, on the application of the trustee, with the consent of the chief officer of the department under which the pay or salary is enjoyed, may direct. Before making any order under this subsection, the Court shall communicate with the chief officer of the department as to the amount, time and manner of the payment to the trustee, and shall obtain the written consent of the chief officer to the terms of such payment.

(2) Where a bankrupt is in the receipt of a salary or income other than as aforesaid, or is entitled to any half pay, or pension, or to any compensation granted by the Government, the Court, on the application of the trustee, shall, from time to time, make such order as it thinks just for the payment of the salary, income, half pay, pension or compensation, or of any part thereof, to the trustee to be applied by him in such manner as the Court may direct.

(3) Nothing in this section shall take away or abridge any power of the chief officer of any public department to dismiss a bankrupt, or to declare the pension, half pay or compensation of any bankrupt to be forfeited.

Vesting and transfer of property.

47. (1) Until a trustee is appointed the official receiver shall be the trustee for the purposes of this Act, and, immediately on a debtor being adjudged bankrupt, the property of the bankrupt shall vest in the trustee.

(2) On the appointment of a trustee the property shall forthwith pass to and vest in the trustee appointed.

(3) The property of the bankrupt shall pass from trustee to trustee, including under that term the official receiver when he fills the office of trustee, and shall vest in the trustee for the time being during his continuance in office, without any conveyance, assignment or transfer whatever.

Disclaimer of onerous property.

48. (1) Where any part of the property of the bankrupt consists of any tenancy burdened with onerous covenants, of shares or stock in companies, of unprofitable contracts, or of any other property that is unsaleable or not readily saleable, by reason of its binding the possessor thereof to the performance of any onerous act, or to the payment of any sum of money, the trustee, notwithstanding that he has endeavoured to sell or has taken possession of the property, or exercised any act of ownership in relation thereto, but subject to the provisions of this section, may, by writing signed by him, at any time within three months after the adjudication of bankruptcy, or, where a person other than the official receiver is appointed trustee, after the first appointment of a trustee, disclaim the property:

Provided that where any such property shall not have come to the knowledge of the trustee within one month after the adjudication or appointment (as the case may be), he may disclaim such property at any time within two months after he first became aware thereof.

(2) The disclaimer shall operate to determine, as from the date of disclaimer, the rights, interests and liabilities of the bankrupt and his property in or in respect of the property disclaimed, and shall also discharge the trustee from all personal liability in respect of the property disclaimed as from the date when the property vested in him, but shall not, except so far as is necessary for the purpose of releasing the bankrupt and his property and the trustee from liability, affect the rights or liabilities of any other person.

(3) A trustee shall not be entitled to disclaim a tenancy without the leave of the Court, except in any cases which may be prescribed by general rules; and the Court may, before or on granting such leave, require such notices to be given to persons interested, and impose such terms as a condition of granting leave and make such orders with respect to fixtures, tenant's improvements and other matters arising out of the tenancy as the Court thinks just.

(4) The trustee shall not be entitled to disclaim any property in pursuance of this section in any case where an application in writing has been made to the trustee by any person interested in the property requiring him to decide whether he will disclaim or not, and the trustee has for a period of twenty-eight days after the receipt of the application, or such extended period as may be allowed by the Court, declined or neglected to give notice whether he disclaims the property or not; and, in the case of a contract, if the trustee, after such application as aforesaid, does not within the said period or extended period disclaim the contract, he shall be deemed to have adopted it.

(5) The Court may, on the application of any person who is, as against the trustee, entitled to the benefit or subject to the burden of a contract made with the bankrupt, make an order rescinding the contract on such terms as to payment by or to either party of damages for the non-performance of the contract, or otherwise, as to the Court may seem equitable, and any damages payable under the order to any such person may be proved by him as a debt under the bankruptcy.

(6) The Court may, on application by any person either claiming any interest in any disclaimed property, or under any liability not discharged by this Act in respect of any disclaimed property, and on hearing such persons as it thinks fit, make an order for the vesting of the property in or delivery thereof to any person entitled thereto, or to whom it may seem just that the same should be delivered by way of compensation for such liability as aforesaid, or a trustee for him, and on such terms as the Court thinks just; and, on any such vesting order being made, the property comprised therein shall vest accordingly in the person therein named in that behalf without any conveyance or assignment for the purpose:

Provided always that, where the property disclaimed is a tenancy, the Court shall not make a vesting order in favor of any person claiming under the bankrupt, whether as under-tenant or as mortgagee by demise, except upon the terms of making such person subject to the same liabilities and obligations as the bankrupt was subject to under the tenancy in respect of the property at the date when the bankruptcy petition was filed, and any mortgagee or under-tenant declining to accept a vesting order upon such terms shall be excluded from all interest in and security upon the property; and if there shall be no person claiming under the bankrupt who is willing to accept an order upon such terms, the Court shall have power to vest the bankrupt's estate and interest in the property in any person bound either personally or in a representative character, and either alone or jointly with the bankrupt, to discharge the tenant's liabilities and obligations, freed and discharged from all estates, incumbrances and interests created therein by the bankrupt.

(7) Any person injured by the operation of a disclaimer under this section shall be deemed to be a creditor of the bankrupt to the extent of the injury, and may accordingly prove the same as a debt under the bankruptcy.

Powers of trustee to deal with property.

49. (1) Subject to the provisions of this Act, the trustee may do all or any of the following things:—

(*a*) sell all or any part of the property of the bankrupt (including the goodwill of the business, if any, and the book debts due or growing due to the bankrupt) by public auction or private contract, with power to transfer the whole thereof to any person or company, or to sell the same in parcels;

(*b*) give receipts for any money received by him, which receipts shall effectually discharge the person paying the money from all responsibility in respect of the application thereof;

(*c*) prove, rank, claim, and draw a dividend in respect of any debt due to the bankrupt;

(*d*) exercise any powers the capacity to exercise which is vested in the trustee under this Act, and execute any powers-of-attorney, deeds and other instruments for the purpose of carrying into effect the provisions of this Act;

(*e*) deal with property to which the bankrupt is beneficially entitled as tenant in tail or other owner of an estate of inheritance less than an estate in fee-simple in the same manner as the bankrupt might have dealt with it.

(2) Any dealing by a trustee under clause (*e*) with any property to which the bankrupt is before his discharge entitled as in that clause mentioned shall, although the bankrupt be dead at the time

of that dealing, be as valid and have the same operation as if the bankrupt were then alive.

Powers exerciseable by trustee with permission of committee of inspection.

50. The trustee may, with the permission of the committee of inspection, do all or any of the following things:—

(1) carry on the business of the bankrupt, so far as may be necessary for the beneficial winding up of the same;

(2) bring, institute or defend any action, suit or other legal proceeding relating to the property of the bankrupt;

(3) employ a solicitor or other agent to take any proceedings or do any business which may be sanctioned by the committee of inspection;

(4) accept as the consideration for the sale of any property of the bankrupt a sum of money payable at a future time subject to such stipulations as to security and otherwise as the committee think fit;

(5) mortgage or pledge any part of the property of the bankrupt for the purpose of raising money for the payment of his debts;

(6) refer any dispute to arbitration, compromise all debts, claims and liabilities, whether present or future, certain or contingent, liquidated or unliquidated, subsisting or supposed to subsist between the bankrupt and any person who may have incurred any liability to the bankrupt on the receipt of such sums, payable at such times, and generally on such terms as may be agreed on;

(7) make such compromise or other arrangement as may be thought expedient with creditors, or persons claiming to be creditors, in respect of any debts provable under the bankruptcy;

(8) make such compromise or other arrangement as may be thought expedient with respect to any claim arising out of or incidental to the property of the bankrupt, made or capable of being made on the trustee by any person or by the trustee on any person;

(9) divide in its existing form amongst the creditors, according to its estimated value, any property which from its peculiar nature or other special circumstances cannot be readily or advantageously sold.

The permission given for the purposes of this section shall not be a general permission to do all or any of the above-mentioned things, but shall only be a permission to do the particular thing or things for which permission is sought in the specified case or cases.

Distribution of Property.

Declaration and distribution of dividends.

51. (1) Subject to the retention of such sums as may be necessary for the costs of administration, or otherwise, the trustee shall, with all convenient speed, declare and distribute dividends amongst the creditors who have proved their debts.

(2) The first dividend, if any, shall be declared and distributed within four months after the conclusion of the first meeting of creditors, unless the trustee satisfies the committee of inspection that there is sufficient reason for postponing the declaration to a later date.

(3) Subsequent dividends shall, in the absence of sufficient reason to the contrary, be declared and distributed at intervals of not more than six months.

(4) Before declaring a dividend the trustee shall cause notice of his intention to do so to be published in the prescribed manner, and shall also send reasonable notice thereof to each creditor mentioned in the bankrupt's statement who has not proved his debts.

(5) When the trustee has declared a dividend, he shall send to each creditor who has proved a notice showing the amount of the dividend and when and how it is payable, and a statement in the prescribed form as to the particulars of the estate.

Joint and separate dividends.

52. (1) Where one partner of a firm is adjudged bankrupt, a creditor to whom the bankrupt is indebted jointly with the other partners of the firm, or any of them, shall not receive any dividend out of the separate property of the bankrupt until all the separate creditors have received the full amount of their respective debts.

(2) Where joint and separate properties are being administered, dividends of the joint and separate properties shall, subject to any order to the contrary that may be made by the Court on the application of any person interested, be declared together; and the expenses of and incident to such dividends shall be fairly apportioned by the trustee between the joint and separate properties, regard being had to the work done for and the benefit received by each property.

Provisions for creditors residing at a distance, &c.

53. In the calculation and distribution of a dividend, the trustee shall make provision for debts provable in bankruptcy, appearing from the bankrupt's statement, or otherwise, to be due to persons resident in places so distant from the place where the trustee is acting that in the ordinary course of communication they have not had sufficient time to tender their proofs, or to establish them if disputed, and also for debts provable in bankruptcy the subject of claims not yet determined. He shall also make provision for any disputed proofs or claims, and for the expenses necessary for the administration of the estate or otherwise, and, subject to the foregoing provisions, he shall distribute as dividend all money in hand.

Right of creditor who has not proved debt before declaration of a dividend.

54. Any creditor who has not proved his debt before the declaration of any dividend or dividends shall be entitled to be paid out of any money for the time being in the hands of the trustee any dividend or dividends he may have failed to receive before that money is applied to the payment of any future dividend or dividends, but he shall not be entitled to disturb the distribution of any dividend declared before his debt was proved by reason that he has not participated therein.

Final dividend.

55. When the trustee has realized all the property of the bankrupt, or so much thereof as can, in the joint opinion of himself and of the committee of inspection, be realized without needlessly protracting the trusteeship, he shall declare a final dividend, but before so doing he shall give notice in manner prescribed to the persons whose claims to be creditors have been notified to him, but not established to his satisfaction, that if they do not establish their claims to the satisfaction of the Court within a time limited by the notice, he will proceed to make a final dividend without regard to their claims. After the expiration of the time so limited, or, if the Court, on application by any such claimant, grant him further time for establishing his claims, then on the expiration of such further time the property of the bankrupt shall be divided among the creditors who have proved their debts, without regard to the claims of any other persons.

No suit for dividend.

56. No suit or action for a dividend shall lie against the trustee, but if the trustee refuses to pay any dividend, the Court may, if it thinks fit, order him to pay it, and also to pay out of his own money interest thereon for the time that it is withheld, and the costs of the application.

Power to allow bankrupt to manage property.

57. (1) The trustee, with the permission of the committee of inspection, may appoint the bankrupt himself to superintend the management of the property of the bankrupt or of any part thereof, or to carry on the trade (if any) of the bankrupt for the benefit of his creditors, and in any other respect to aid in administering the property in such manner and on such terms as the trustee may direct.

Allowance to bankrupt for maintenance or service.

(2) The trustee may, from time to time, with the permission of the committee of inspection, make such allowance as he may think just to the bankrupt out of his property for the support of the bankrupt and his family, or in consideration of his services if he is engaged in winding up his estate, but any such allowance may be reduced by the Court.

Right of bankrupt to surplus.

58. The bankrupt shall be entitled to any surplus remaining after payment in full of his creditors, with interest, as by this Act provided, and of the costs, charges and expenses of the proceedings under the bankruptcy petition.

PART IV.

OFFICIAL RECEIVERS.

Appointment of official receivers of debtors' estates.

59. (1) The Chief Justice of each High Court may, at any time after the passing of this Act, and, from time to time, appoint such person as he thinks fit to be official receiver of debtors' estates for that Court, and may remove any person so appointed from that office.

(2) The Local Government may in like manner appoint any such person as it thinks fit to be official receiver of debtors' estates for any other Court having bankruptcy jurisdiction under this Act, and remove any person so appointed from such office.

Status of official receiver.

60. (1) The duties of the official receiver shall have relation both to the conduct of the debtor and to the administration of the estate.

(2) An official receiver may, for the purpose of affidavits verifying proofs, petitions or other proceedings under this Act, administer oaths.

(3) All expressions referring to the trustee under a bankruptcy shall, unless the context otherwise requires or the Act otherwise provides, include the official receiver when acting as trustee.

(4) The trustee shall supply the official receiver with such information and give him such access to, and facilities for inspecting. the bankrupt's books and documents, and generally shall give him such aid, as may be requisite for enabling the official receiver to perform his duties under this Act.

Duties of official receiver as regards the debtor's conduct.

61. As regards the debtor, it shall be the duty of the official receiver—

(1) to investigate the conduct of the debtor and to report to the Court. stating whether there is reason to believe that the debtor has committed any act which constitutes an offence under this Act or under section 421, 422, 423 or 424 of the Indian Penal Code or any amendment thereof, or which would justify the Court in refusing. suspending or qualifying an order for his discharge;

(2) to make such other reports concerning the conduct of the debtor as the Court may direct;

(3) to take such part as may be directed by the Court in the public examination of the debtor;

(4) to take such part and give such assistance in relation to the prosecution of any fraudulent debtor as the Court may direct.

Duties of official receiver as to debtor's estate.

62. (1) As regards the estate of a debtor, it shall be the duty of the official receiver—

(a) pending the appointment of trustee, to act as interim receiver of the debtor's estate, and, where a special manager is not appointed, as manager thereof;

(b) to authorize the special manager to raise money or make advances for the purposes of the estate in any case where, in the interests of the creditors, it appears necessary so to do;

(c) to summon and preside at the first meeting of creditors;

(d) to issue forms of proxy for use at the meetings of creditors;

(e) to report to the creditors as to any proposal which the debtor may have made with respect to the mode of liquidating his affairs;

(f) to advertise the receiving order, the date of the creditors' first meeting and of the debtor's public examination, and such other matters as it may be necessary to advertise;

(g) to act as trustee where no trustee is appointed or during any vacancy in the office of trustee.

(2) For the purpose of his duties as interim receiver or manager the official receiver shall have such of the powers conferable on a receiver appointed under section 503 of the Code of Civil Procedure as may be specified in the general rules, but shall, as far as practicable, consult the wishes of the creditors with respect to the management of the debtor's property; and may for that purpose, if he thinks it advisable, summon meetings of the persons claiming to be creditors, and shall not, unless the Court otherwise orders, incur any expense beyond such as is requisite for the protection of the debtor's property or the disposing of perishable goods:

Provided that, when the debtor cannot himself prepare a proper statement of affairs, the official receiver may, subject to any prescribed conditions, and at the expense of the estate, employ some person or persons to assist in the preparation of the statement affairs.

(3) Every official receiver shall account to the Court and pay over all moneys and deal with all securities in such manner as the Court, from time to time, directs.

PART V.

TRUSTEES.

Remuneration of Trustee.

Remuneration of trustee.

63. (1) Where the creditors appoint any person to be trustee of a debtor's estate, his remuneration (if any) shall be fixed by an ordinary resolution of the creditors, or, if the creditors so resolve, by the committee of inspection, and shall be in the nature of a commission or per-

centage, of which one part shall be payable on the amount realized, after deducting any sums paid to secured creditors out of the proceeds of their securities, and the other part on the amount distributed in dividend.

(2) If one-fourth in number or value of the creditors dissent from the resolution, or the bankrupt satisfies the Court that the remuneration is unnecessarily large, the Court shall fix the amount of the remuneration.

(3) The resolution shall express what expenses the remuneration is to cover, and no liability shall attach to the bankrupt's estate, or to the creditors, in respect of any expenses which the remuneration is expressed to cover.

(4) Where no remuneration has been voted to a trustee, he shall be allowed out of the bankrupt's estate such proper costs and expenses incurred by him in or about the proceedings of the bankruptcy as the prescribed officer may allow.

(5) A trustee shall not, under any circumstances whatever, make any arrangement for or accept from the bankrupt, or any solicitor, auctioneer or any other person that may be employed about a bankruptcy, any gift, remuneration or pecuniary or other consideration or benefit whatever beyond the remuneration fixed by the creditors and payable out of the estate, nor shall he make any arrangement for giving up, or give up, any part of his remuneration, either as receiver, manager or trustee, to the bankrupt, or any solicitor or other person that may be employed about a bankruptcy.

Costs.

Allowance and taxation of costs.

64. (1) Where a trustee or manager receives remuneration for his services as such, no payment shall be allowed in his accounts in respect of the performance by any other person of the ordinary duties which are required by this Act or the rules made under this Act to be performed by himself.

(2) Where the trustee is a solicitor, he may contract that the remuneration for his services as trustee shall include all professional services.

(3) All bills and charges of solicitors, managers, accountants, auctioneers, brokers, and other persons, not being trustees, shall be taxed by the prescribed officer, and no payments in respect thereof shall be allowed in the trustee's accounts without proof of such taxation having been made. The officer shall satisfy himself before passing such bills and charges that the employment of such solicitors and other persons, in respect of the particular matters out of which such charges arise, has been duly sanctioned.

(4) Every such person shall, on request by the trustee (which request the trustee shall make a sufficient time before declaring a dividend), deliver his bill of costs or charges to the prescribed officer, and if he fails to do so within seven days after receipt of the request, or such further time as the Court, on application, may grant, the trustee shall declare and distribute the dividend without regard to any claim by him, and thereupon any such claim shall be forfeited as well against the trustee personally as against the estate.

Receipts, Payments, Accounts, and Audit.

Bankruptcy estates account.

65. (1) An account called the bankruptcy estates account shall be kept by the Court with such Government treasury or bank as the Governor-General in Council may direct, and all moneys realized on account of a bankrupt's estate by the Court or any officer thereof under this Act shall, unless it is otherwise prescribed, be paid to that account.

(2) Every trustee in bankruptcy shall, in such manner and at such times as the Court, with the sanction of the Governor-General in Council, directs, pay the money received by him to the bankruptcy estates account, and the treasury or bank shall furnish him with a certificate of receipt of the money so paid.

(3) Subject to any general rules relating to small bankruptcies under Part VII of this Act, where the debtor at the date of the receiving order has an account at a bank, such account shall not be withdrawn until the expiration of seven days from the day appointed for the first meeting of creditors, unless the Court, for the safety of the account, or other sufficient cause, orders the withdrawal of the account.

(4) If a trustee at any time retains for more then ten days a sum exceeding five hundred rupees, or such other amount as the Court in any particular case authorizes him to retain, then, unless he explains the retention to the satisfaction of the Court, he shall pay interest on the amount so retained in excess at the rate of twenty per centum per annum, and shall have no claim for remuneration, and may be removed from his office by the Court, and shall be liable to pay any expenses occasioned by reason of his default.

(5) All payments out of money standing to the credit of the bankruptcy estates account shall be made by the treasury or bank in the prescribed manner.

Trustee not to pay into private account.

66. No trustee in a bankruptcy or under any composition or scheme of arrangement shall pay any sums received by him as trustee into his private banking account.

Investment of surplus funds.

67. (1) Whenever the cash balance standing to the credit of the bankruptcy estates account is in excess of the amount which, in the opinion of the Court, is required for the time being to answer demands in respect of bankrupt's estates, the Court shall notify the same to such officer as the Governor-General in Council may appoint in this behalf, and shall pay over the same, or any part thereof, as the officer may direct, to the officer, and the officer may invest the said sums or any part thereof in Government securities to be placed to the credit of the said account.

(2) Whenever any part of the money so invested is, in the opinion of the Court, required to answer any demands in respect of bankrupts' estates, the Court shall notify to the officer the amount so required, and the officer shall thereupon repay to the Court such sum as may be required to the credit of the bankruptcy estates account, and for that purpose may direct the sale of such part of the said securities as may be necessary.

(3) The dividends on the investments under this section shall be paid to such account as the Governor-General in Council may direct, and regard shall be had to the amount thus derived in fixing the fees payable in respect of bankruptcy proceedings.

Audit of trustee's accounts.

68. (1) Every trustee shall, at such times as may be prescribed, but not less than twice in each year during his tenure of office, send to the Court, or as it directs, an account of his receipts and payments as such trustee.

(2) The account shall be in a prescribed form, shall be made in duplicate, and shall be verified by a declaration in the prescribed form.

(3) The Court shall cause the accounts so sent to be audited, and for the purposes of the audit the trustee shall furnish the Court with such vouchers and information as the Court may require, and the Court may at any time require the production of

and inspect any books or accounts kept by the trustee.

(4) When any such account has been audited, a copy thereof shall be filed in the Court, and shall be open to the inspection of any creditor, or of the bankrupt, or of any person interested.

The trustee to furnish list of creditors.

69. The trustee shall, whenever required by any creditor so to do, and on payment by such creditor of the prescribed fee, furnish and transmit to such creditor by post a list of the creditors, showing in such list the amount of the debt due to each of such creditors.

Books to be kept by trustee.

70. The trustee shall keep, in manner prescribed, proper books, in which he shall from time to time cause to be made entries or minutes of proceedings at meetings, and of such other matters as may be prescribed; and any creditor of the bankrupt may, subject to the control of the Court, personally or by his agent inspect any such books.

Annual statement of proceedings.

71. (1) Every trustee in a bankruptcy shall from time to time, as may be prescribed, and not less than once in every year, during the continuance of the bankruptcy, submit to the Court a statement showing the proceedings in the bankruptcy up to the date of the statement, containing the prescribed particulars, and made out in the prescribed form.

(2) The Court shall cause the statements so transmitted to be examined, and shall call the trustee to account for any misfeasance, neglect or omission which may appear on the said statements or in his accounts or otherwise, and may require the trustee to make good any loss which the estate of the bankrupt may have sustained by the misfeasance, neglect or omission.

Release of Trustee.

Release of trustee.

72. (1) When the trustee has realized all the property of the bankrupt, or so much thereof as can, in his opinion, be realized without needlessly protracting the trusteeship, and distributed a final dividend, if any or has ceased to act by the reason of a composition having been approved, or has resigned, or has been removed from his office, the Court shall, on his application, cause a report on his accounts to be prepared, and, on his complying with all the requirements of the Court, shall take into consideration the report, and any objection which may be urged by any creditor or person interested against the release of the trustee, and shall either grant or withhold the release accordingly.

(2) Where the release of a trustee is withheld, the Court may, on the application of any creditor or person interested, make such order as it thinks just, charging the trustee with the consequences of any act or default he may have done or made contrary to his duty.

(3) An order of the Court releasing the trustee shall discharge him from all liability in respect of any act done or default made by him in the administration of the affairs of the bankrupt, or otherwise in relation to his conduct as trustee; but any such order may be revoked on proof that it was obtained by fraud or by suppression or concealment of any material fact.

(4) Where the trustee has not previously resigned or been removed, his release shall operate as a removal of him from his office, and thereupon the official receiver shall be the trustee.

Official Name.

Official name of trustee.

73. The trustee may sue and be sued by the official name of "the trustee of the property of , a bankrupt," inserting the name of the bankrupt, and by that name may hold property of every description, make contracts, sue and be sued, enter into any engagements binding on himself and his successors in office, and do all other acts necessary or expedient to be done in the execution of his office.

Appointment and Removal.

Power to appoint joint or successive trustees.

74. (1) Subject to the provisions of this Act, the creditors may, if they think fit, appoint more persons than one to the office of trustee; and when more persons than one are appointed, they shall declare whether any act required or authorized to be done by the trustee is to be done by all or any one or more of such persons, but all such persons are in this Act included under the term "trustee," and shall be joint tenants of the property of the bankrupt.

(2) Subject as aforesaid, the creditors may also appoint persons to act as trustees in succession in the event of one or more of the persons first named declining to accept the office of trustee, or failing to give security, or not being approved of by the Court.

Office of trustee vacated by insolvency.

75. If a receiving order is made against a trustee, he shall thereby vacate his office of trustee.

Removal of trustee.

76. (1) The creditors may, by ordinary resolution, at a meeting specially called for that purpose, of which seven days' notice has been given, remove a trustee appointed by them, and may at the same or any subsequent meeting appoint another person to fill the vacancy as hereinafter provided in case of a vacancy in the office of trustee.

(2) If the Court is of opinion that a trustee appointed by the creditors is guilty of misconduct, or fails to perform his duties under this Act, the Court may remove him from his office.

Proceedings in case of vacancy in office of trustee.

77. (1) If a vacancy occurs in the office of a trustee, the creditors in general meeting may appoint a person to fill the vacancy, and thereupon the same proceedings shall be taken as in the case of a first appointment.

(2) The official receiver shall, on the requisition of any creditor, summon a meeting for the purpose of filling any such vacancy.

(3) If the creditors do not within three weeks after the occurrence of a vacancy appoint a person to fill the vacancy, the official receiver shall report the matter to the Court, and the Court may appoint a trustee; but in such case the creditors or committee of inspection shall have the same power of appointing a trustee as in the case of a first appointment.

(4) If no trustee is appointed, and during any vacancy in the office of trustee, the official receiver shall act as trustee and shall have all the powers of a trustee.

Voting Powers of Trustee.

Limitation of voting powers of trustee.

78. The vote of the trustee, or of his partner, clerk, solicitor or solicitor's clerk, either as creditor or as proxy for a creditor, shall not be reckoned in the majority required for passing any resolution affecting the remuneration or conduct of the trustee.

Control over Trustee.

Discretionary powers of trustee and control thereof.

79. (1) Subject to the provisions of this Act, the trustee shall, in the administration of the property of the bankrupt and in the distribution thereof amongst his creditors, have regard to any directions that may be given by resolution of the creditors at any general meeting, or by the committee of inspection; and any directions so given by the creditors at any general meeting shall in case of conflict be deemed to override any directions given by the committee of inspection.

(2) The trustee may, from time to time, summon general meetings of the creditors for the purpose of ascertaining their wishes, and it shall be his duty to summon meetings at such times as the creditors, by resolution, either at the meeting appointing the trustee or otherwise, may direct, or whenever requested in writing to do so by one-fourth in value of the creditors.

(3) The trustee may apply to the Court in manner prescribed for directions in relation to any particular matter arising under the bankruptcy.

(4) Subject to the provisions of this Act, the trustee shall use his own discretion in the management of the estate and its distribution among the creditors.

Appeal to Court against trustee.

80. If the bankrupt or any of the creditors or any other person is aggrieved by any act or decision of the trustee, he may apply to the Court; and the Court may confirm, reverse or modify the act or decision complained of, and make such order in the premises as it thinks just.

Control of Court over trustees.

81. (1) The Court shall take cognizance of the conduct of trustees, and in the event of any trustee not faithfully performing his duties and duly observing all the requirements imposed on him by any enactment or by rules or otherwise, with respect to the performance of his duties, or in the event of any complaint being made to the Court by any creditor in regard thereto, the Court shall enquire into the matter and take such action thereon as may be deemed expedient.

(2) The Court may at any time require any trustee to answer any inquiry made by it in relation to any bankruptcy in which the trustee is engaged, and may examine on oath the trustee or any other person concerning the bankruptcy.

(3) The Court may also direct a local investigation to be made of the books and vouchers of the trustee.

PART VI.

CONSTITUTION, PROCEDURE, AND POWERS OF COURT.

Jurisdiction.

Courts having jurisdiction in bankruptcy.

82. (1) The Courts having jurisdiction in bankruptcy under this Act shall be—

(*a*) the High Courts of Judicature at Fort William, Madras, and Bombay;

(*b*) the Court of the Recorder of Rangoon; and

(*c*) such other Civil Courts as the Local Government, with the previous sanction of the Governor-General in Council, may, from time to time, appoint in this behalf in the territories administered by it.

Local limits of their jurisdiction.

83. For the purposes of this Act the local limits of the jurisdiction of the said Courts shall be as follows, namely:—

(*a*) the local limits of the jurisdiction of each of the said High Courts of Judicature shall be the local limits for the time being of its ordinary original civil jurisdiction;

(*b*) the local limits of the jurisdiction of the Court of the Recorder of Rangoon shall comprise the towns of Rangoon, Moulmein, Akyab, and Bassein.

(*c*) the local limits of the jurisdiction of a Court appointed by a Local Government shall be such as may, from time to time, be fixed, with the previous sanction of the Governor-General in Council, by that Local Government within the territories administered by it.

Jurisdiction in Presidency High Court to be exercised by Judge.

84. All matters in respect of which jurisdiction is given by this Act shall, in each of the said High Courts of Judicature, be ordinarily transacted and disposed of by or under the direction of one of the Judges of that Court; and the Chief Justice shall, from time to time, assign a Judge for that purpose.

Transfer of proceedings from Court to Court.

85. Any proceedings in bankruptcy pending in any Court appointed by the Local Government of a province under section 82 may at any time, and at any stage thereof, and either with or without application from any of the parties thereto, be transferred by the High Court of the province to itself or to any other Court appointed as aforesaid in the province.

Power to state special case.

86. If any question of law arises in any bankruptcy proceeding in a Court appointed by the Local Government of a province under section 82, and all the parties to the proceeding desire, or one of them and the Judge of the Court may desire, to have the question determined in the first instance in the High Court of the province, the Judge shall state the facts, in the form of a special case, for the opinion of that High Court. The special case and the proceedings, or such of them as may be required, shall be transmitted to the High Court for the purposes of the determination.

Exercise of jurisdiction in chambers.

87. Subject to the provisions of this Act and to general rules, the Judge of a Court exercising jurisdiction in bankruptcy may exercise in chambers the whole or any part of his jurisdiction.

Delegation of powers to Presidency Judges of Small Causes.

88. (1) Subject to general rules limiting the powers conferred by this section, the High Court of Judicature at Fort William, Madras or Bombay may, from time to time, direct that, in any matters in respect of which jurisdiction is given to the Court by this Act, a Judge of the Presidency Small Cause Court appointed by it in this behalf shall have all or any of the powers in this section mentioned; and any order made or act done by such Judge of the Small Cause Court in the exercise of the said powers shall be deemed the order or act of the High Court.

(2) The powers referred to in sub-section (1) are the following, namely -

(*a*) to hear bankruptcy petitions, and to make receiving orders and adjudications thereon;

(*b*) to hold the public examination of debtors;

(*c*) to grant orders of discharge;

(*d*) to approve compositions or schemes of arrangement;

(*e*) to make interim orders in any case of urgency;

(*f*) to make any order or exercise any jurisdiction which by any rule in that behalf is prescribed as proper to be made or exercised in chambers;

(*g*) to hear and determine any unopposed or *ex parte* application;

(*h*) to summon and examine any person known or suspected to have in his possession effects of the debtor or to be indebted to him, or capable of giving information respecting the debtor, his dealings or property.

(3) A Judge of the Small Cause Court shall not have power to commit for contempt of Court.

Powers of Court appointed by Local Government.

89. A Court appointed by a Local Government under section 82 shall, for the purposes of its bankruptcy jurisdiction, in addition to its ordinary powers, have all the powers and jurisdiction possessed by any of the said High Courts of Judicature, and the orders of the Court may be enforced accordingly in manner prescribed.

General power of Bankruptcy Courts.

90. (1) Subject to the provisions of this Act, every Court having jurisdiction in bankruptcy under this Act shall have full power to decide all questions of priorities, and all other questions whatsoever, whether of law or fact, which may arise in any case of bankruptcy coming within the cognizance of the Court, or which the Court may deem it expedient or necessary to decide for the purpose of doing complete justice or making a complete distribution of property in any such case.

(2) A Court having jurisdiction in bankruptcy under this Act shall not be subject to be restrained in the execution of its powers under this Act by the order of any other Court, nor shall any appeal lie from its decisions, except in manner directed by this Act.

(3) Where a receiving order has been made in any of the said High Courts of Judicature under this Act, the Judge by whom such order was made shall have power, if he sees fit, without any further consent, to order the transfer to such Judge of any suit or action by or against the bankrupt pending before any other Judge or Judges of the Court.

(4) Where default is made by a trustee, debtor or other person in obeying any order or direction given by the Court or by an official receiver or any other officer of the Court under any power conferred by this Act, the Court may, on the application of the official receiver or other duly authorized person, order such defaulting trustee, debtor or person to comply with the order or direction so given; and the Court may also, if it shall think fit, upon any such application, make an immediate order for the committal of such defaulting trustee, debtor or other person if in British India: Provided that the power given by this sub-section shall be deemed to be in addition to, and not in substitution for, any other right or remedy in respect of such default.

Appeals.

Appeals in bankruptcy.

91. (1) Every Court having jurisdiction in bankruptcy under this Act may review, rescind or vary any order made by it under its bankruptcy jurisdiction.

(2) Orders in bankruptcy matters shall, at the instance of any person aggrieved, be subject to appeal as follows:—

(*a*) an appeal shall lie from the order of a single Judge of one of the said High Courts of Judicature to the High Court;

(*b*) an appeal shall lie from the order of the Court of the Recorder of Rangoon to the Special Court;

(*c*) an appeal shall lie from the order of a Court appointed by a Local Government under section 82 to the High Court of the province;

(*d*) no appeal shall be entertained except in conformity with such general rules as may for the time being be in force in relation to the appeal.

Procedure.

Discretionary powers of the Court.

92. (1) Subject to the provisions of this Act and to general rules, the costs of and incidental to any proceeding in Court under this Act shall be in the discretion of the Court.

(2) The Court may at any time adjourn any proceedings before it upon such terms, if any, as it may think fit to impose.

(3) The Court may at any time amend any written process or proceeding under this Act upon such terms, if any, as it may think fit to impose.

(4) Where by this Act or by general rules the time for doing any act or thing is limited, the Court may extend the time either before or after the expiration thereof, upon such terms, if any, as the Court may think fit to impose.

(5) Subject to general rules, the Court may in any matter take the whole or any part of the evidence either *vivâ voce* or by interrogatories, or upon affidavit, or by commission beyond the limits of British India.

(6) For the purpose of approving a composition or scheme by joint debtors, the Court may, if it thinks fit, and on the report of the official receiver that it is expedient so to do, dispense with the public examination of one of such joint debtors if he is unavoidably prevented from attending the examination by illness or absence abroad.

Consolidation of petitions.

93. Where two or more bankruptcy petitions are presented against the same debtor or against joint debtors, the Court may consolidate the proceedings, or any of them, on such terms as the Court thinks fit.

Power to change carriage of proceedings.

94. Where the petitioner does not proceed with due diligence on his petition, the Court may substitute as petitioner any other creditor to whom the debtor may be indebted in the amount required by this Act in the case of the petitioning creditor.

Continuance of proceedings on death of debtor.

95. If a debtor by or against whom a bankruptcy petition has been presented dies, the proceedings in the matter shall, unless the Court otherwise orders, be continued as if he were alive.

Power to stay proceedings.

96. The Court may at any time, for sufficient reason, make an order staying the proceedings under a bankruptcy petition, either altogether or for a limited time, on such terms and subject to such conditions as the Court may think just.

Power to present petition against one partner.

97. Any creditor whose debtor is sufficient to entitle him to present a bankruptcy petition against all the partners of a firm may present a petition against any one or more partners of the firm without including the others.

98. Where there are more respondents than one to a petition, the Court may dismiss the petition as to one or more of them, without prejudice to the effect of the petition as against the other or others of them.

Power to dismiss petition against some respondents only.

99. Where a receiving order has been made on a bankruptcy petition against or by one member of a partnership, any other bankruptcy petition against or by a member of the same partnership shall be filed in or transferred to the Court in which the first-mentioned petition is in course of prosecution; and if a trustee has been appointed in respect of the property of the first-mentioned member of the partnership, the same trustee shall, unless the Court otherwise directs, be appointed in respect of the property of the last-mentioned member, and the Court may give such directions for consolidating the proceedings under the petitions as it thinks just.

Property of partners to be vested in same trustee.

100. Where a member of a partnership is adjudged bankrupt, the Court may authorize the trustee to commence and prosecute any suit or action in the names of the trustee and of the bankrupt's partner; and any release by such partner of the debt or demand to which the action relates shall be void; but notice of the application for authority to commence the suit or action shall be given to him, and he may show cause against it, and on his application the Court may, if it thinks fit, direct that he shall receive his proper share of the proceeds of the action, and if he does not claim any benefit therefrom, he shall be indemnified against costs in respect thereof as the Court directs.

Actions by trustee and bankrupt's partners.

101. Where a bankrupt is a contractor in respect of any contract jointly with any person or persons, such person or persons may sue or be sued in respect of the contract without the joinder of the bankrupt.

Actions on joint contracts.

102. Any two or more persons, being partners, or any person carrying on business under a partnership name, may take proceedings or be proceeded against under this Act in the name of the firm; but in such case the Court may, on application by any person interested, order the names of the person who are partners in such firm or the name of such person to be disclosed in such manner, and verified on oath, or otherwise as the Court may direct.

Proceedings in partnership name.

PART VII.

SMALL BANKRUPTCIES.

103. When a petition is presented by or against a debtor, if the Court is satisfied by affidavit or otherwise, or the official receiver reports to the Court, that the property of the debtor is not likely to exceed in value three thousand rupees, the Court may make an order that the debtor's estate be administered in a summary manner, and thereupon the provisions of this Act shall be subject to the following modifications:—

Summary administration in small cases.

(*a*) if the debtor is adjudged bankrupt, the official receiver shall be the trustee in the bankruptcy;

(*b*) there shall be no committee of inspection, but the official receiver may do with the permission of the Court all things which may be done by the trustee with the permission of the committee of inspection;

(*e*) such other modifications may be made in the provisions of this Act as may be prescribed by general rules with the view of saving expense and simplifying procedure; but nothing in this section shall permit the modification of the provisions of this Act relating to the examination or discharge of the debtor;

Provided that the creditors may at any time, with the previous permission of the Court, by special resolution, resolve that some person other than the official receiver be appointed trustee in the bankruptcy, and thereupon the bankruptcy shall proceed as if an order for summary administration had not been made.

PART VIII.

FRAUDULENT DEBTORS AND CREDITORS.

Local extent and construction of this Part.

104. (1) This part shall extend only to British India.

(2) "The Court" in this Part means the Court before which an accused person is tried.

(3) Nothing in this Part shall prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence under this Part, or from being liable under that other law to any other or higher punishment or penalty than that provided by this Part:

Provided that a person shall not be punished twice for the same offence.

105. Any person against whom a receiving order has been under this Act shall, in each of the cases following, be punished with imprisonment which may extend to two years, or with fine, or with both; that is to say,—

Punishment of fraudulent debtors.

(*a*) If he does not, to the best of his knowledge and belief, fully and truly discover to the trustee administering his estate for the benefit of his creditors all his property, and how, and to whom, and for what consideration, and when he disposed of any part thereof, except such part as has been disposed of in the ordinary way of his trade (if any), or laid out in the ordinary expense of his family, unless the Court is satisfied that he had no intent to defraud:

(*b*) If he does not deliver up to such trustee, or as he directs, all such part of his property as is in his custody or under his control, and which he is required by law to deliver up, unless the Court is satisfied that he had no intent to defraud:

(*c*) If he does not deliver up to such trustee, or as he directs, all books, documents, papers and writings in his custody or under his control relating to his property or affairs, unless the Court is satisfied that he had no intent to defraud:

(*d*) If after the presentation of a bankruptcy petition by or against him, or within four months next before such presentation, he cancels any part of his property to the value of one hundred rupees or upwards, or conceals any debt due to or from him, unless the Court is satisfied that he had no intent to defraud:

(*e*) If after the presentation of a bankruptcy petition by or against him, or within four months next before such presentation, he fraudulently removes any part of his property of the value of one hundred rupees or upwards:

(*f*) If he makes any material omission in any statement relating to his affairs, unless the Court is satisfied that he had no intent to defraud:

(*g*) If knowing or believing that a false debt has been proved by any person under the bankruptcy, he fails for the period of a month to inform such trustee as aforesaid thereof:

(*h*) If after the presentation of a bankruptcy petition by or against him, he prevents the production of any book, document, paper or writing affecting or relating to his property or affairs, unless the Court is satisfied that he had no intent to conceal the state of his affairs or to defeat the law:

(*i*) If after the presentation of a bankruptcy petition by or against him, or within four months next before such presentation, he conceals, destroys, mutilates or falsifies, or is privy to the concealment, destruction, mutilation, or falsification of, any book or document affecting or relating to his property or affairs, unless the Court is satisfied that he had no intent to conceal the state of his affairs or to defeat the law:

(*j*) If after the presentation of a bankruptcy petition by or against him, or within four months next before such presentation, he makes or is privy to the making of any false entry in any book or document affecting or relating to his property or affairs, unless the Court is satisfied that he had no intent to conceal the state of his affairs or to defeat the law:

(*k*) If after the presentation of a bankruptcy petition by or against him, or within four months next before such presentation, he fraudulently parts with, alters or makes any omission, or is privy to the fraudulently parting with, altering or making any omission, in any document affecting or relating to his property or affairs:

(*l*) If after the presentation of a bankruptcy petition by or against him, or at any meeting of his creditors within four months next before such presentation, he attempts to account for any part of his property by fictitious losses or expenses:

(*m*) If while undischarged he obtains credit to the extent of two hundred rupees or upwards from any person without informing such person that he is an undischarged bankrupt:

(*n*) If within four months next before the presentation of a bankruptcy petition by or against him, he, by any false representation or other fraud, has obtained any property on credit and has not paid for the same:

(*o*) If within four months next before the presentation of a bankruptcy petition by or against him, he, being a trader, obtains under the false pretence of carrying on business and dealing in the ordinary way of his trade, any property on credit, and has not paid for the same, unless the Court is satisfied that he had no intent to defraud:

(*p*) If within four months next before the presentation of a bankruptcy petition by or against him, he, being a trader, pawns, pledges or disposes of otherwise than in the ordinary way of his trade any property which he has obtained on credit and has not paid for, unless the Court is satisfied that he had no intent to defraud:

(*q*) If he is guilty of any false representation or other fraud for the purpose of obtaining the consent of his creditors or any of them to any agreement with reference to his affairs or his bankruptcy.

Penalty for absconding with property.

106. If any person against whom a receiving order has been made under this Act after the presentation of a bankruptcy petition by or against him, or within four months before such presentation, quits British India and takes with him, or attempts or makes preparation for quitting British India and for taking with him, any part of his property to the amount of two hundred rupees or upwards, which ought by law to be divided amongst his creditors, he shall (unless the Court is satisfied that he had no intent to defraud) be punished with imprisonment which may extend to two years, or with fine, or with both.

Penalty on fraudulently obtaining credit, &c.

107. Any person shall in each of the cases following be punished with imprisonment which may extend to one year, or with fine, or with both; that is to say,—

(1) if in incurring any debt or liability he has obtained credit under false pretences, or by means of any other fraud;

(2) if he has with intent to defraud his creditors, or any of them, made, or caused to be made, any gift, delivery or transfer of or any charge on his property;

(3) if he has, with intent to defraud his creditors, concealed or removed any part of his property since or within two months before the date of any unsatisfied decree or order for payment of money obtained against him.

Penalty on false claim, &c.

108. If any creditor, in any bankruptcy composition or arrangement with creditors, wilfully and with intent to defraud makes any false claim, or any proof, declaration or statement of account which is untrue in any material particular, he shall be punished with imprisonment which may extend to one year, or with fine, or with both.

Debts incurred by fraud.

109. Where a debtor makes any composition or arrangement with his creditors, he shall remain liable for the unpaid balance of debt which he incurred or increased, or whereof before the date of the arrangement or composition he obtained forbearance, by any fraud, provided the defrauded creditor has not assented to the arrangement or composition otherwise than by proving his debt and accepting dividends.

Order by Court for prosecution on report of official receiver or trustee.

110. Where the official receiver or a trustee in any bankruptcy reports to any Court exercising jurisdiction in bankruptcy that in his opinion a debtor against whom a receiving order has been made under this Act has been guilty of any offence under this Act, or under section 421, 422, 423 or 424 of the Indian Penal Code, or where any such Court is satisfied upon the representation of any creditor or member of the committee of inspection that there is ground to believe that the debtor has been guilty of any offence as aforesaid, that Court shall, if it appears to it that there is a reasonable probability that the debtor may be convicted, order the official receiver or trustee to prosecute him for such offence.

111. Where a debtor has been guilty of any offence, he shall not be exempt from being proceeded against therefor by reason that he has obtained his discharge or that a composition or scheme of arrangement has been accepted or approved.

Criminal liability after discharge or composition.

PART IX.

SUPPLEMENTAL PROVISIONS.

Application of Act.

112. A married woman shall, in respect of her separate property (if any), be subject to this Act in the same way as if she were unmarried.

Application to married woman.

113. A receiving order shall not be made against any corporation, or against any partnership or association, or company registered under any enactment relating to companies for the time being in force.

Exclusion of partnerships and companies.

114. (1) Any creditor of a deceased debtor whose debt would have been sufficient to support a bankruptcy petition against such debtor, had he been alive, may present to the Court a petition in the prescribed form praying for an order for the administration of the estate of the deceased debtor according to the Law of Bankruptcy.

Administration in bankruptcy of estate of person dying insolvent.

(2) Upon the prescribed notice being given to the executor, administrator or other legal representative of the deceased debtor, the Court may, in the prescribed manner, upon proof of the petitioner's debt, unless the Court is satisfied that there is a reasonable probability that the estate will be sufficient for the payment of the debts owing by the deceased, make an order for the administration in bankruptcy of the deceased debtor's estate, or may upon cause shown dismiss such petition with or without costs.

(3) An order of administration under this section shall not, in cases where a grant of probate or administration is required to establish a title as legal representative, be made until the expiration of two months from the date of the grant of probate or letters of administration, unless with the concurrence of the legal representative of the deceased debtor, or unless the petitioner proves to the satisfaction of the Court that the debtor committed an act of bankruptcy within three months prior to his decease.

(4) A petition for administration under this section shall not be presented to the Court after proceedings have been commenced in any Court of justice for the administration of the deceased debtor's estate; but that Court may, in such case, on the application of any creditor, and on proof that the estate is insufficient to pay its debts, transfer the proceedings to the Court exercising jurisdiction in bankruptcy, and thereupon such last-mentioned Court may, in the prescribed manner, make an order for the administration of the estate of the deceased debtor, and the like consequences shall ensue as under an administration order made on the petition of a creditor.

(5) Upon an order being made for the administration of a deceased debtor's estate, the property of the debtor shall vest in the official receiver of the Court, as trustee thereof, and he shall forthwith proceed to realize and distribute the same in accordance with the provisions of this Act.

(6) With the modifications hereinafter mentioned, all the provisions of Part III of this Act, relating to the administration of the property of a bankrupt, shall, so far as the same are applicable, apply to the case of an administration order under this section in like manner as to an order of adjudication under this Act.

(7) In the administration of the property of the deceased debtor under an order of administration, the official receiver shall have regard to any claim by the legal representative of the deceased debtor to payment of the proper funeral and testamentary expenses incurred by him in and about the debtor's estate, and such claims shall be deemed a preferential debt under the order, and be payable in full, out of the debtor's estate, in priority to all other debts.

(8) If, on the administration of a deceased debtor's estate, any surplus remains in the hands of the official receiver, after payment in full of all the debts due from the debtor, together with the costs of the administration and interest as provided by this Act in case of bankruptcy, such surplus shall be paid over to the legal representative of the deceased debtor's estate, or dealt with in such other manner as may be prescribed.

(9) Notice to the legal representative of a deceased debtor of the presentation by a creditor of a petition under this section shall, in the event of an order for administration being made thereon, be deemed to be equivalent to notice of an act of bankruptcy, and after such notice no payment or transfer of property made by the legal representative shall operate as a discharge to him as between himself and the official receiver; save as aforesaid, nothing in this section shall invalidate any payment made or any act or thing done in good faith by the legal representative before the date of the order for administration.

(10) Unless the context otherwise requires, "Court," in this section, means the Court exercising jurisdiction in bankruptcy within the local limits of the jurisdiction of which the debtor resided or carried on business for the greater part of the six months immediately prior to his decease: "creditor" means one or more creditors qualified to present a bankruptcy petition as in this Act provided.

(11) General rules, for carrying into effect the provisions of this section, may be made in the same manner and to the like effect and extent as in bankruptcy.

General Rules.

115. (1) The High Court of a province may, from time to time, with the concurrence of the Governor-General in Council, make, revoke and alter general rules for carrying into effect the objects of this Act.

Power to make general rules.

(2) All general rules made under the foregoing provisions of this section shall be judicially noticed, and shall have effect as if enacted by this Act.

(3) Such general rules as may be required for purposes of this Act may be made at any time after the passing of this Act.

(4) Provided that the said general rules so made, revoked or altered shall not extend the jurisdiction of the Court.

(5) After the commencement of this Act no general rule under the provisions of this section shall come into operation until the expiration of one month after the same has been made and issued.

Fees and Remuneration.

116. (1) The High Court of a province may, with the previous sanction of the Governor-General in Council, from time to time prescribe a scale of fees and percentages to be charged for or in respect of proceedings under this Act, and direct by whom and in what manner the

Fees and remuneration.

same are to be collected, accounted for, and to what account they shall be paid.

(2) The High Court may, with the like sanction, from time to time fix the remuneration to be paid to the official receivers.

(3) This section shall come into operation on the passing of this Act.

Evidence.

Gazettes to be evidence.

117. (1) A copy of the *Gazette of India* or of a Local Government, containing any notice inserted therein in pursuance of this Act or the rules made under this Act, shall be evidence of the facts stated in the notice.

(2) The production of a copy of the Gazette containing any notice of a receiving order, or of an order adjudging a debtor bankrupt, shall be conclusive evidence in all legal proceedings of the order having been duly made, and of its date.

Evidence of proceedings at meetings of creditors.

118. (1) A minute of proceedings at a meeting of creditors under this Act, signed at the same or the next ensuing meeting by a person describing himself as, or appearing to be, chairman of the meeting at which the minute is signed, shall be received in evidence without further proof.

(2) Until the contrary is proved, every meeting of creditors in respect of the proceedings whereof a minute has been so signed shall be deemed to have been duly convened and held, and all resolutions passed or proceedings had thereat to have been duly passed or had.

Evidence of proceedings in bankruptcy.

119. Any petition or copy of a petition in bankruptcy, any order or certificate or copy of an order or certificate made by any Court having jurisdiction in bankruptcy, any instrument or copy of an instrument, affidavit or document made or used in the course of any bankruptcy proceedings, or other proceedings had under this Act, shall, if it appears to be sealed with the seal of any Court having jurisdiction in bankruptcy, or purports to be signed by any Judge thereof, or is certified as a true copy by any Registrar thereof, be receivable in evidence in all legal proceedings whatever.

Swearing of affidavits.

120. Subject to general rules any affidavit may be used in a Bankruptcy Court if it is sworn—

(1) in British India, before—
   (*a*) any Court or Magistrate,
   (*b*) any officer whom the High Court of a province may appoint in this behalf, or
   (*c*) any officer appointed by any other Court which the Local Government has generally or specially empowered in this behalf;

(2) in England, before any person authorized to administer oaths in Her Majesty's High Court of Justice, or in the Court of Chancery of the County Palatine of Lancaster, or before any Registrar of a Bankruptcy Court, or before any officer of a Bankruptcy Court authorized in writing on that behalf by the Judge of the Court;

(3) in Scotland or in Ireland, before a Judge Ordinary, Magistrate or Justice of the Peace; and

(4) in any other place, before a Magistrate or Justice of the Peace or other person qualified to administer oaths in that place (he being certified to be a Magistrate or Justice of the Peace, or qualified as aforesaid by a British Minister or British Consul or Political Agent or by a notary public).

Death of witness.

121. In case of the death of the debtor or his wife, or of a witness whose evidence has been received by any Court in any proceeding under this Act, the deposition of the person so deceased, purporting to be sealed with the seal of the Court, or a copy thereof purporting to be so sealed, shall be admitted as evidence of the matters therein deposed to.

Bankruptcy Courts to have seals.

122. Every Court having jurisdiction in bankruptcy under this Act shall have a seal describing the Court in such manner as may be directed by order of the High Court of the Province, and judicial notice shall be taken in all legal proceedings of the seal, and of the signature of the Judge or Registrar of any such Court having such jurisdiction.

Certificate of appointment of trustee.

123. A certificate of the Court, that a person has been appointed trustee under this Act, shall be conclusive evidence of his appointment.

Time.

Computation of time.

124. (1) Where by this Act any limited time from or after any date or event is appointed or allowed for the doing of any act or the taking of any proceeding, then in the computation of that limited time the same shall be taken as exclusive of the day of that date or of the happening of that event, and as commencing at the beginning of the next following day, and the act or proceeding shall be done or taken at latest on the last day of that limited time as so computed, unless the last day is a day on which the Court does not sit, in which case any act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court sits.

(2) Where by this Act any act or proceeding is directed to be done or taken on a certain day, then, if that day happens to be a day on which the Court does not sit, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court sits.

Notices.

Service of notices.

125. All notices and other documents for the service of which no special mode is directed may be sent by prepaid post letter to the last known address of the person to be served therewith.

Formal Defects.

Formal defect not to invalidate proceedings.

126. (1) No proceeding in bankruptcy shall be invalidated by any formal defect or by any irregularity, unless the Court before which an objection is made to the proceeding is of opinion that substantial injustice has been caused by the defect or irregularity, and that the injustice cannot be remedied by any order of that Court.

(2) No defect or irregularity in the appointment or election of a receiver, trustee or member of a committee of inspection shall vitiate any act done by him in good faith.

Bankrupt Trustee

Application of Trustee Act to bankruptcy of trustee.

127. Where a bankrupt is a trustee within the Indian Trustee Act, 1866, section 35 of that Act shall have effect so as to authorize the appointment of a new trustee in substitution for the bankrupt (whether

voluntarily resigning or not), if it appears expedient to do so, and all provisions of that Act, and of any other Act relative thereto, shall have effect accordingly.

Corporations, &c.

Acting of corporations, partners, &c.

128. For all or any of the purposes of this Act, a corporation may act by any of its officers authorized in that behalf under the seal of the corporation; a firm may act by any of its members; and a lunatic may act by his committee, curator bonis or manager, or, when the matter is one in respect of which he has been placed under the care of a Court of Wards, by that Court or such person as it may appoint in this behalf.

Construction of former Acts, &c.

Construction of enactments and instruments referring to 11 & 12 Vic., c. 21.

129. Where by any enactment or instrument reference is made to the 11 & 12 Vic., cap. 21 (*an Act to consolidate and amend the Laws relating to Insolvent Debtors in India*), the enactment or instrument shall be constructed and have effect as if reference were made therein to the corresponding provisions of this Act.

Certain provisions to bind the Crown.

130. The provisions of this Act relating to the remedies against the property of a debtor, the priorities of debts, the effect of a composition or scheme of arrangement, and the effect of a discharge shall bind the Crown.

Saving for existing rights of audience.

131. Nothing in this Act, or in any transfer of jurisdiction effected thereby, shall take away or affect any right of audience that any person may have had at the commencement of this Act, and all solicitors or other persons who had the right of audience before the Courts for the Relief of Insolvent Debtors shall have the like right of audience in bankruptcy matters in the High Courts of Judicature aforesaid.

Unclaimed Funds or Dividends.

Unclaimed and undistributed dividends or funds.

132. (1) Where the trustee, under any bankruptcy, composition or scheme pursuant to this Act, shall have under his control any unclaimed dividend which has remained unclaimed for more than six months, or where, after making a final dividend, such trustee shall have in his hands or under his control any unclaimed or undistributed moneys arising from the property of the debtor, he shall forthwith pay the same to the bankruptcy estates account of the Court. The treasury or bank at which the account is kept shall furnish him with a certificate of receipt of the money so paid, which shall be an effectual discharge to him in respect thereof.

(2) The Court, with the concurrence of the Governor General in Council, may, from time to time, appoint a person to collect and get in all such unclaimed or undistributed funds or dividends, and for the purposes of this section the Court shall have, and at the instance of the person so appointed or of its own motion may exercise, all the powers conferred by this Act with respect to the discovery and realization of the property of a debtor, and the provisions of Part I of this Act with respect thereto shall, with any necessary modifications, apply to proceedings under this section.

(3) The provisions of this section shall not, except as expressly declared herein, deprive any person of any larger or other right or remedy to which he may be entitled against such trustee.

(4) Any person claiming to be entitled to any moneys paid in to the bankruptcy estates account pursuant to this section may apply to the Court for an order for payment to him of the same: and the Court, if satisfied that the person claiming is entitled, shall make an order for the payment to such person of the sum due.

(5) The Court may, with the previous sanction of the Governor-General in Council, at any time after the passing of this Act pen the account referred to in this Act as the bankruptcy estates account.

Interpretation.

Interpretation.

133. (1) In this Act, unless the context otherwise requires,—

"Province" means the territories under the administration of a Local Government:

"High Court of the province" means the highest Civil Court of appeal for the province:

"the Court" means the Court having jurisdiction in bankruptcy under this Act:

"affidavit" includes declarations under any legislative enactment, affirmations and attestations on honor:

"available act of bankruptcy" means any act of bankruptcy available for a bankruptcy petition at the date of the presentation of the petition on which the receiving order is made:

"debt provable in bankruptcy" or "provable debt" includes any debt or liability by this Act made provable in bankruptcy:

"general rules" include forms:

"Oath" includes affirmation, declaration under any legislative enactment and attestation on honor:

"ordinary resolution" means a resolution decided by a majority in value of the creditors present, personally or by proxy, at a meeting of creditors and voting on the resolution:

"prescribed" means prescribed by general rules within the meaning of this Act:

"property" includes money, goods, things in action, land and every description of property, whether moveable or immoveable, also obligations, easements and every description of estate, interest and profit, present or future, vested or contingent, arising out of or incident to property as above defined:

"resolution" means ordinary resolution:

"secured creditor" means a person holding a mortgage, charge or lien on the property of the debtor, or any part thereof, as a security for a debt due to him from the debtor:

"schedule" means schedule to this Act:

"sheriff" includes any officer charged with the execution of a writ or other process:

"special resolution" means a resolution decided by a majority in number and three-fourths in value of the creditors present, personally or by proxy, at a meeting of creditors and voting on the resolution:

"trustee" means the trustee in bankruptcy of a debtor's estate, and includes the official receiver where no other person is appointed trustee of the estate.

(2) The schedules to this Act shall be construed and have effect as part of this Act.

Repeal.

Repeal of enactments.

134. (1) The enactments described in the third schedule are hereby repealed as from the commencement of this Act to the extent mentioned in that schedule.

(2) The repeal effected by this Act shall not affect—

(a) anything done or suffered before the commencement of this Act under any enactment repealed by this Act; nor

(b) any right or privilege acquired, or duty imposed, or liability or disqualification incurred, under any enactment so repealed; nor

(c) any fine, forfeiture or other punishment incurred or to be incurred in respect of any offence committed or to be committed against any enactment so repealed; nor

(d) the institution or continuance of any proceeding or other remedy, whether under any enactment so repealed or otherwise, for ascertaining any such liability or disqualification or enforcing or recovering any such fine, forfeiture or punishment as aforesaid.

(3) Notwithstanding the repeal effected by this Act, all proceedings in any Court or before a Judge of any Court under any of the enactments repealed pending at the commencement of this Act shall, except so far as any provision of this Act is expressly applied to pending proceedings, continue, and those enactments shall, except as aforesaid, apply thereto as if this Act had not passed.

(4) The person for the time being holding the office of official receiver for any of the High Courts of Judicature aforesaid or for the Court of the Recorder of Rangoon shall, for the purposes of any such proceedings before that Court or any Judge thereof, be deemed to have been appointed official assignee under the said Act.

THE FIRST SCHEDULE.

(*See Section* 14.)

MEETINGS OF CREDITORS.

1. The first meeting of creditors shall be summoned for a day not later than fourteen days after the date of the receiving order, unless the Court for any special reason deems it expedient that the meeting be summoned for a later day.

2. The official receiver shall summon the meeting by giving not less than seven days' notice of the time and place thereof in the prescribed manner.

3. The official receiver shall also, as soon as practicable, send to each creditor mentioned in the debtor's statement of affairs a notice of the time and place of the first meeting of creditors, accompanied by a summary of the debtor's statement of affairs, including the causes of his failure, and any observations thereon which the official receiver may think fit to make; but the proceedings at the first meeting shall not be invalidated by reason of any such notice or summary not having been sent or received before the meeting.

4. The meeting shall be held at such place as is in the opinion of the official receiver most convenient for the majority of the creditors.

5. The official receiver or the trustee may at any time summon a meeting of creditors, and shall do so whenever so directed by the Court, or so requested in writing by one-fourth in value of the creditors.

6. Meetings subsequent to the first meeting shall be summoned by sending notice of the time and place thereof to each creditor at the address given in his proof, or if he has not proved at the address given in the debtor's statement of affairs, or at such other address as may be known to the person summoning the meeting

7. The official receiver, or some person nominated by him, shall be the chairman at every meeting: Provided that, if the Court so directs, the chairman at any meetings subsequent to the first shall be such person as the meeting by resolution appoint.

8. A person shall not be entitled to vote as a creditor at the first or any other meeting of creditors unless he has duly proved a debt provable in bankruptcy to be due to him from the debtor, and the proof has been duly lodged before the time appointed for the meeting.

9. A creditor shall not vote at any such meeting in respect of any unliquidated or contingent debt, or any debt the value of which is not ascertained.

10. For the purpose of voting a secured creditor shall, unless he surrenders his security, state in his proof the particulars of his security, the date when it was given, and the value at which he assesses it, and shall be entitled to vote only in respect of the balance (if any) due to him, after deducting the value of his security. If he votes in respect of his whole debt, he shall be deemed to have surrendered his security, unless the Court on application is satisfied that the omission to value the security has arisen from inadvertence.

11. A creditor shall not vote in respect of any debt on or secured by a current bill of exchange or promissory note held by him, unless he is willing to treat the liability to him thereon of every person who is liable thereon antecedently to the debtor, and against whom a receiving order has not been made, as a security in his hands, and to estimate the value thereof and for the purposes of voting, but not for the purposes of dividend, to deduct it from his proof.

12. It shall be competent to the trustee or to the official receiver, within twenty-eight days after a proof estimating the value of a security as aforesaid has been made use of in voting at any meeting, to require the creditor to give up the security for the benefit of the creditors generally on payment of the value so estimated, with an addition thereto of twenty per centum: Provided that, where a creditor has put a value on such security, he may at any time before he has been required to give up such security as aforesaid correct such valuation by a new proof, and deduct such new value from his debt, but in that case such addition of twenty per centum shall not be made if the trustee requires the security to be given up.

13. If a receiving order is made against one partner of a firm, any creditor to whom that partner is indebted jointly with the other partners of the firm, or any of them, may prove his debt for the purpose of voting at any meeting of creditors, and shall be entitled to vote thereat.

14. The chairman of a meeting shall have power to admit or reject a proof for the purpose of voting, but his decision shall be subject to appeal to the Court. If he is in doubt whether the proof of a creditor should be admitted or rejected, he shall mark the proof as objected to and shall allow the creditor to vote subject to the vote being declared invalid in the event of the objection being sustained.

15. A creditor may vote either in person or by proxy.

16. Every instrument of proxy shall be in the prescribed form, and shall be issued by the official receiver, or, after the appointment of a trustee, by the trustee, and every insertion therein shall be in the handwriting of the person giving the proxy.

17. A creditor may give a general proxy to his manager or clerk, or any other person in his regular employment. In such case the instrument of proxy shall state the relation in which the person to act thereunder stands to the creditor.

18. A creditor may give a special proxy to any person to vote at any specified meeting or adjournment thereof, for or against any specific resolution, or for or against any specified person as trustee, or member of a committee of inspection.

19 A proxy shall not be used unless it is deposited with the official receiver or trustee before the meeting at which it is to be used.

20. Where it appears to the satisfaction of the Court that any solicitation has been used by or on behalf of a trustee or receiver in obtaining proxies, or in procuring the trusteeship or receivership, except by the direction of a meeting of creditors, the Court shall have power, if it think fit, to order that no remuneration shall be allowed to the person by whom or on whose behalf such solicitation may have been exercised, notwithstanding any resolution of the committee of inspection or of the creditors to the contrary.

21. A creditor may appoint the official receiver of the debtor's estate to act in manner prescribed as his general or special proxy.

22. The chairman of a meeting may, with the consent of the meeting, adjourn the meeting from time to time and from place to place.

23. A meeting shall not be competent to act for any purpose, except the election of a chairman, the proving of debts and the adjournment of the meeting, unless there are present, or represented thereat, at least three creditors, or all the creditors if their number does not exceed three.

24. If within half an hour from the time appointed for the meeting a quorum of creditors is not present or represented, the meeting shall be adjourned to the same day in the following week at the same time and place, or to such other day as the chairman may appoint, not being less than seven or more than twenty-one days.

25. The chairman of every meeting shall cause minutes of the proceedings at the meeting to be drawn up, and fairly entered in a book kept for that purpose, and the minutes shall be signed by him or by the chairman of the next ensuing meeting.

26. No person acting either under a general or special proxy shall vote in favor of any resolution which would directly or indirectly place himself, his partner or employer in a position to receive any remuneration out of the estate of the debtor otherwise than as a creditor rateably with the other creditors of the debtor: Provided that, where any person holds special proxies to vote for the appointment of himself as trustee, he may use the said proxies and vote accordingly.

THE SECOND SCHEDULE.

(*See Section* 33.)

PROOF OF DEBTS.

Proof in Ordinary Cases.

1. Every creditor shall prove his debt as soon as may be after the making of a receiving order.

2. A debt may be proved by delivering or sending through the post in a prepaid letter to the official receiver, or if a trustee has been appointed, to the trustee, an affidavit verifying the debt.

3. The affidavit may be made by the creditor himself or by some person authorized by or on behalf of the creditor. If made by a person so authorized, it shall state his authority and means of knowledge.

4. The affidavit shall contain or refer to a statement of account showing the particulars of the debt, and shall specify the vouchers, if any, by which the same can be substantiated. The official receiver or trustee may at any time call for the production of the vouchers.

5. The affidavit shall state whether the creditor is or is not a secured creditor.

6. A creditor shall bear the cost of proving his debt, unless the Court otherwise specially orders.

7. Every creditor who has lodged a proof shall be entitled to see and examine the proofs of other creditors before the first meeting and at all reasonable times.

8. A creditor proving his debt shall deduct therefrom all trade discounts, but he shall not be compelled to deduct any discount, not exceeding five per centum on the net amount of his claim, which he may have agreed to allow for payment in cash.

Proof by Secured Creditors.

9. If a secured creditor realizes his security, he may prove for the balance due to him after deducting the net amount realized.

10. If a secured creditor surrenders his security to the official receiver or trustee for the general benefit of the creditors, he may prove for his whole debt.

11. If a secured creditor does not either realize or surrender his security, he shall, before ranking for dividend, state in his proof the particulars of his security, the date when it was given and the value at which he assesses it, and shall be entitled to receive a dividend only in respect of the balance due to him after deducting the value so assessed.

12. (*a*) Where a security is so valued, the trustee may at any time redeem it on payment to the creditor of the assessed value.

(*b*) If the trustee is dissatisfied with the value at which a security is assessed, he may require that the property comprised in any security so valued be offered for sale at such times and on such terms and conditions as may be agreed on between the creditor and the trustee, or as, in default of such agreement, the Court may direct. If the sale be by public auction, the creditor, or the trustee on behalf of the estate, may bid or purchase.

(*c*) Provided that the creditor may at any time, by notice in writing, require the trustee to elect whether he will or will not exercise his power of redeeming the security or requiring it to be realized, and if the trustee does not, within six months after receiving the notice, signify in writing to the creditor his election to exercise the power, he shall not be entitled to exercise it; and the equity of redemption, or any other interest in the property comprised in the security which is vested in the trustee, shall vest in the creditor, and the amount of his debt shall be reduced by the amount at which the security has been valued.

13. Where a creditor has so valued his security, he may at any time amend the valuation and proof on showing to the satisfaction of the trustee, or the Court, that the valuation and proof were made *bonâ fide* on a mistaken estimate, or that the security has diminished or increased in value since its previous valuation; but every such amendment shall be made at the cost of the creditor, and upon such terms as the Court shall order, unless the trustee shall allow the amendment without application to the Court.

14. Where a valuation has been amended in accordance with the foregoing rule, the creditor shall forthwith repay any surplus dividend which he may have received in excess of that to which he would have been entitled on the amended valuation, or, as the case may be, shall be entitled to be paid out of any money for the time being available for dividend any dividend or share of dividend which he may have failed to receive by reason of the inaccuracy of the original valuation, before that money is made applicable to the payment of any future dividend, but he shall shall not be entitled to disturb the distribution of any dividend declared before the date of the amendment.

15. If a creditor after having valued his security subsequently realizes it, or if it is realized under the provisions of rule 12, the net amount realized shall be substituted for the amount of any valuation previously made by the creditor, and shall be treated in all respects as an amended valuation made by the creditor.

16. If a secured creditor does not comply with the foregoing rules, he shall be excluded from all share in any dividend.

17. Subject to the provisions of rule 12, a creditor shall in no case receive more than sixteen annas in the rupee and interest as provided by this Act.

Proof in respect of District Contracts.

18. If a debtor was at the date of the receiving order liable in respect of distinct contracts as a member of two or more distinct terms, or as a sole contractor, and also as member of a firm, the circumstance that the firms are in whole or in part composed of the same individuals, or that the sole contractor is also one of the joint contractors, shall not prevent proof in respect of the contracts against the properties respectively liable on the contracts.

Periodical Payments.

19. When any rent or other payment falls due at stated periods, and the receiving order is made at any time other than one of those periods, the person entitled to the rent or payment may prove for a proportionate part thereof up to the date of the order as if the rent or payment grew due from day to day.

Interest.

20. On any debt or sum certain, payable at a certain time or otherwise, whereon interest is not reserved or agreed for, and which is overdue at the date of the receiving order and provable in bankruptcy, the creditor may prove for interest at a rate not exceeding four per centum per annum to the date of the order from the time when the debt or sum was payable, if the debt or sum is payable by virtue of a written instrument at a certain time, and, if payable otherwise, then from the time when a demand in writing has been made giving the debtor notice that interest will be claimed from the date of the demand until the time of payment.

Debt payable at a future time.

21. A creditor may prove for a debt not payable when the debtor committed an act of bankruptcy as if it were payable presently, and may receive dividends equally with the other creditors, deducting only thereout a rebate of interest at the rate of five per centum per annum computed from the declaration of a dividend to the time when the debt would have become payable, according to the terms on which it was contracted.

Admission or Rejection of Proofs.

22. The trustee shall examine every proof and the grounds of the debt, and in writing admit or reject it in whole or in part, or require further evidence in support of it. If he rejects a proof, he shall state in writing to the creditor the grounds of the rejection.

23. If the trustee thinks that a proof has been improperly admitted, the Court may, on the application of the trustee, after notice to the creditor who made the proof, expunge the proof or reduce its amount.

24. If a creditor is dissatisfied with the decision of the trustee in respect of a proof, the Court may, on the application of the creditor, reverse or vary the decision.

25. The Court may also expunge or reduce a proof upon the application of a creditor if the trustee declines to interfere in the matter, or, in the case of a composition or scheme, upon the application of the debtor.

26. For the purpose of any of his duties in relation to proofs, the trustee may administer oaths and take affidavits.

27. The official receiver, before the appointment of a trustee, shall have all the powers of a trustee with respect to the examination, admission and rejection of proofs, and any act or decision of his in relation thereto shall be subject to the like appeal.

THE THIRD SCHEDULE.

(*See Section* 134.)

ENACTMENTS REPEALED.

A.—Statute repealed.

Year and Chapter.	Title.	Extent of Repeal.
11 and 12 Vic., c. 21.	An Act to consolidate and amend the Laws relating to Insolvent Debtors in India.	So much as has not been repealed.

B.—Acts repealed.

Number and Year.	Subject or Title.	Extent of Repeal.
XXVII of 1841.	An Act for appropriating the Unclaimed Dividends on Insolvent Estates.	So much as has not been repealed.
XVII of 1875.	The Burma Courts Act, 1875.	Section 66.

Drafts referred to in paragraph 5 of Despatch to Her Majesty's Secretary of State, No. 32, dated 12th June 1885.

Draft Act of Parliament No. I.

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this Present Parliament assembled, and by the authority of the same, as follows :—

Short title.

1. This Act may be cited as the Indian Bankruptcy (Extension of Powers) Act, 1885.

Extent.

2. This Act shall have the same extent as the Bankruptcy Act, 1883.

Operation beyond India of Act applying English bankruptcy law to India.

3. If the Governor-General of India in Council by any law passed at a meeting for the purpose of making laws and regulations in accordance with the provisions of the Indian Councils Act, 1861, as amended by subsequent Acts, applies or adapts any of the provisions of the Bankruptcy Act, 1883, or of any Act amending, supplementing or substituted for the same, to any of the following cases, namely :—

(*a*) the case of any debtor who at the time when proceedings in bankruptcy are commenced by or against him is in prison in British India under a decree of a Civil Court for non-payment of money, or within a year before that time has ordinarily resided or had a dwelling-house or place of business in British India ; or

(*b*) the case of any deceased debtor who resided or carried on business in British India for the greater part of the six months immediately before his decease ;

the provisions so applied or adapted shall, except so far as their local operation is expressly limited by that law, have effect beyond the limits of British India as if they had been enacted by this Act, and shall be taken notice of by all Courts of Justice in the same manner as if they were the provisions of a public Act of Parliament.

Provisions applicable to property situated in England.

4. Where under any such law a receiving order or adjudication of bankruptcy is made against a debtor, or an order is made for the administration in bankruptcy of the estate of a deceased person who dies insolvent, the provisions of the Bankruptcy Act, 1883, specified in the schedule to this Act shall apply to such parts of the debtor's property or deceased debtor's estate as may be situate in England as if the order or adjudication had been made in England.

Effect of certificate of appointment of trustee.

5. The certificate of appointment of a trustee issued under any such law shall, for the purposes of any law in force in any part of the British dominions beyond the limits of British India requiring registration, enrolment or recording of conveyances or assignments of property, be deemed to be a conveyance or assignment of property, and may be registered, enrolled and recorded accordingly.

THE SCHEDULE.

PROVISIONS OF THE BANKRUPTCY ACT, 1883, REFERRED TO IN SECTION 4.

Section 45.
Section 46.
Section 50, sub-sections (2) and (4).
Section 42.
Section 55.
Section 56, sub-section (5).
Section 70, sub-section (2), except in so far as it refers to the Board of Trade.

Draft Act of Parliament No. II.

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Short title.

1. This Act may cited as the Indian Bankruptcy (Extension of Powers) Act, 1885.

Power to Legislative Council to apply or adapt English Bankruptcy Law: operation of laws passed under this power.

2. (1) The Governor-General of India in Council shall have power, subject to the provisions contained in the Indian Councils Act, 1861, as amended by subsequent Acts, at meetings for the purpose of making laws and regulations, to make laws applying or adapting any of the provisions of the Bankruptcy Act, 1883, or any other Act amending, supplementing or passed in substitution for the same,—

(*a*) to the case of any debtor who at the time when proceedings in bankruptcy are commenced by or against him is in prison in British India under an order of a Civil Court for non-payment of money, or within a year before that time has ordinarily resided or had a dwelling-house or place of business in British India ; or

(*b*) to the case of any deceased debtor who resided or carried on business in British India for the greater part of the six months immediately prior to his decease.

(2) Every such law shall have effect beyond the limits of British India to the extent and in the manner by this Act provided, it shall be taken notice of by all Courts of Justice in the same manner as if it were a public Act of Parliament, and its operation shall not be affected by the repeal or amendment of the Bankruptcy Act, 1883, or of any other Act as aforesaid.

Certain orders and proceedings under such laws and provisions thereof to have effect throughout British dominions.

3. (1) The following orders and proceedings under any such law shall have, as nearly as may be, the same effect throughout the British dominions as in British India, that is to say:—

(*a*) a receiving order and the rescission of the same;

(*b*) the appointment of an official receiver as interim receiver, and the appointment of a special manager of the debtor's estate or business;

(*c*) the acceptance and approval of a composition or scheme, and the annulment of a composition or scheme;

(*d*) an adjudication of bankruptcy, the annulment of such an adjudication and any order passed thereon vesting the property of the bankrupt in him or in any other person;

(*e*) the appointment, removal and release of a trustee in a bankruptcy or under or in pursuance of a composition or scheme, and the revocation of any such release;

(*f*) an order of discharge and the revocation of any such order;

(*g*) the decision of a Court on any question of law or fact; and

(*h*) an order for the administration in bankruptcy of a deceased person's estate.

(2) The provisions of any such law defining the status, powers, rights and duties of an official receiver, an interim receiver, a special manager or a trustee in bankruptcy, or under or in pursuance of a composition or scheme, or prescribing any rule of evidence, shall have, as nearly as may be, the same force throughout the British dominions as in British India.

(3) Provided * that when under any such law a receiving order has been made against a person or he has been adjudged bankrupt, or an order has been made for the administration of the estate of a deceased person who dies insolvent, sections 45, 46, sub-sections (2) and (4) of section 50, section 52, section 55, sub-section (5) of section 56, and (except in so far as it refers to the Board of Trade) sub-section (2) of section 70 of the Bankruptcy Act, 1883, shall, so far as they are applicable, apply in respect of such portion of his property or estate as is situate in England in the same manner as if the order or adjudication had been made under that Act.

Effect of certificate of appointment of trustee.

4. The certificate of appointment of a trustee issued under any such law shall, for the purposes of any law in force in any part of the British dominions beyond the limits of British India requiring registration, enrolment or recording of conveyances or assignments of property, be deemed to be a conveyance or assignment of property, and may be registered, enrolled and recorded accordingly.

No action for dividend.

5. No action for a dividend shall lie against a trustee under any such law in any Court in the British dominions.

Power to stay proceedings.

6. Any Court in the British dominions beyond the limits of British India in which proceedings are pending against a debtor may, on proof that a bankruptcy petition has been presented by or against the debtor under any such law, either stay the proceedings or allow them to continue on such terms as it may think just.

* The provisions of the Bankruptcy Act, 1883, mentioned in this proviso either will not be reproduced in the Indian Act or will be reproduced in such a form that they would be unsuitable for application to property in England.

From the Right Honorable Her Majesty's Secretary of State for India, to His Excellency the Right Honorable the Governor-General of India in Council, dated 19th November 1885, No. 41.

I have considered in Council the letter of your Excellency in Council, No. 32, dated 12th of June last, forwarding, with connected papers, a copy of the proposed Indian Bankruptcy Bill and of two alternative drafts prepared wtih a view to obtaining the Act of Parliament necessary for carrying out your proposals with respect to that Bill.

India Office, to Board of Trade, 6th August 1885.
Board of Trade, to India Office, 19th October 1885.

2. I have thought it right to consult the Board of Trade on the subject, and I now forward, for the information of your Lordship in Council, a copy of the correspondence noted in the margin which has taken place with that office.

8. As regards the necessary Parliamentary legislation, I think there may possibly be some difficulty in obtaining, in the first instance, an Act of Parliament such as the Draft No. I conferring upon the Governor-General s Council the large powers required. That difficulty, however, would probably be much diminished if the scope of the Act of Parliament were extended so as to include the Colonial Governments in the manner suggested by the Board of Trade. The precise shape, however, which legislation in this country should assume cannot be finally determined pending the decision on the proposal of the Board of Trade, respecting which it will be seen that the Board is in communication with the Colonial Office.

4. Your Lordship in Council is desirous of proceeding with the Bill during the coming sittings in Calcutta and passing it through the stages at which discussion is likely to arise before the return of the Government to Simla next year, the final stages of the Bill being deferred until the requisite Parliamentary legislation is completed. To this course I see no objection. The Bill seems well calculated to

effect the reforms which experience has shown to be necessary, and I have no doubt that, in passing it through the Council, you will derive much assistance from the criticisms which you have invited upon it from the judicial authorities and commercial bodies who are especially familiar with the subject.

From J. A. GODLEY, ESQ., Permanent Under Secretary of State for India, to the Secretary, Board of Trade, dated 6th August 1885, No. 1234—85.

I am directed by the Secretary of State for India in Council to transmit, for the information of the Board of Trade, a copy of a despatch received from the Government of India, dated the 12th of June last, with enclosures, namely, (1) a copy of a Bill which it is proposed to introduce in the Legislative Council of the Governor-General of India for the purpose of adapting the English Bankruptcy Act of 1883 to Indian circumstances; (2) a copy of the Statement of Objects and Reasons appended to that Bill; and (3) copies of two Draft Bills, one of which (preferably the Draft marked No. I), it is suggested, should be passed as an Act of Parliament, entitled the "Indian Bankruptcy (Extension of Powers) Act, 1885."

The present law relating to insolvents in India, as it is to be found in the Statute 11 and 12 Vic. cap. 21, is very defective, and frequent proposals for its amendment have been made from time to time. The subject has recently been again very carefully considered, with the result that the Governor-General in Council now proposes that an Act of the Indian Legislature should be passed adapting the English Bankruptcy Act of 1883 to India with the necessary modifications, and that, in order to give full effect to the provisions of that measure, an Act of Parliament should, in the first instance, be obtained (in the terms of Draft No. I) conferring upon the Council of the Governor-General the extended powers which are necessary to give effect beyond the limits of British India to such of the provisions of the proposed Indian Bankruptcy Act as ought to have operation beyond those limits.

I am to say that, in requesting the attention of the Board of Trade to these proposed measures and to paragraphs 4 to 9 of the despatch from the Governor-General in Council, Lord Randolph Churchill does not suggest that the Board should undertake the labor of considering the details of the Bill to be introduced in the Council in India, except so far as may be necessary with reference to the question of the provisions of that Bill having effect beyond the limits of British India, His Lordship's object being to obtain the opinion of the Board as to the proposal (which, as at present advised, he is inclined to approve) that an Act of Parliament based upon Draft No. I should be applied for.

From R. GIFFEN, ESQ., Secretary, Board of Trade, to the Under Secretary of State for India, dated 19th October 1885, No. J. & P. 1933—85.

I am directed by the Board of Trade to acknowledge the receipt of your letter of 6th August last, transmitting, by direction of the Secretary of State for India in Council, copy of a despatch, with its enclosures, from the Government of India, with reference to a proposal to introduce a Bill in the Legislative Council of the Governor-General for the purpose of adapting the English Bankruptcy Act of 1883 to Indian circumstances.

The Board observe that Lord Randolph Churchill desires to be informed of their opinon as to the suggestion that an Act of Parliament should be obtained conferring upon the Governor-General in Council the extended powers which appear to be necessary in order to give effect in other portions of Her Majesty's dominions to such of the provisions of the proposed Indian Bankruptcy Act as ought to have operation beyond the limits of British India. With reference to this point, I am to request that you will be good enough to inform His Lordship that the Board of Trade see no objection to the proposed draft Bill No. I which accompanied your letter and which has been framed with this object.

The consideration of this matter has, however, given rise to a further question as to the desirability of obtaining a general enactment which should enable the Courts of the United Kingdom or any of the colonies or possessions to give effect to the provisions of the bankruptcy laws of any other part of the British Empire, as is now the case under the provisions of sections 117—119 of the English Act with regard to the different portions of the United Kingdom. Another point which appears also to call for attention in putting forward any suggestion for a general enactment such as that referred to is the advisability of obtaining power to extend, if necessary, the provisions of section 14 of the Bankruptcy Act of 1883 with a view to enabling the Courts having bankruptcy jurisdiction in this country to suspend proceedings in cases occurring where, in the opinion of such Courts, India or any other portion of the British Empire would more properly be the place for such proceedings, and also to confer upon Indian and Colonial Courts the exercise of similar power where it is obvious that the proceedings should be held in any other portion of Her Majesty's dominions.

These, however, are points upon which the Board of Trade are unable to express any decided opinion without a reference to, and consultation with, the Colonial Office, more especially as a manifest difficulty arises in connection with the self-governing colonies. The Board have, therefore, caused a copy of your letter and its enclosures, and also a copy of this communication, to be forwarded to the Secretary of State for the Colonies, in order to ascertain whether it would be considered expedient by the Colonial Office that a Bill should be brought before Parliament with a view to obtaining uniformity of procedure in all the Crown Colonies in the matter of proceedings similar in nature to those which the draft Bill No. I which accompanied your letter is designed to cover as regards Indian cases, or to concur in a more general

Bill with that object which would include India as well as the colonies. The Board have also suggested to the Secretary of State the desirability of recommending the subject to the authorities of the self-governing colonies in the event of the course proposed being found practicable.

As soon as a reply is received from the Coloniel Office, the Board will cause a further communication to be addressed to you upon the matter.

It may, of course, prove undesirable to delay the Bill relating to India in order to include the colonies, but it appears desirable in the first instance to obtain the opinion of the Colonial Office on the question and to ascertain whether the proposal to include them will involve delay.

Extract from a demi-official letter from S. DIGNAM, ESQ., to the Honorable MR. C. P. ILBERT, dated Calcutta, 23rd July 1885.

Bankruptcy Bill.

I have been acting as attorney for the Official Assignee of the Court for Relief of Insolvent Debtors at Calcutta for a period of nearly twenty years, and have necessarily had considerable experience on the working of the existing Act. I have lately seen in the *Times of India* a copy of the draft Objects and Reasons accompanying the draft Bill now under consideration, and observe that it runs closely on the lines of the Bankruptcy Act, 1883, with which I am to great extent familiar, and some of the provisions of which, namely, as to proof of debts, I consider, already apply to India, under section 40 of the existing Insolvency Act, 11 and 12 Vic., c. 21—

Gray v. *Chick*, Coryton 136.
Re Shib Chundra Mullick, 8 B. L. R. 30.
Re Parke Pittar, 8 ,, 118.
Re Howard Brothers, 13 ,, (App.) 9.
Re T. Agabeg, 12 Cal. Rep. 165.

And it appears to me that an Act framed on the Bankruptcy Act, 1883, will be a great improvement on the existing Act, and will relieve the Court of a great deal of detail business which can as well be done (if not better) by the Official Receiver.

Some of the provisions of the Act of 1883 are, however, in my opinion, not suited to this country, such as the meeting of creditors under section 15, and the appointment of a private trustee under section 21, of the Act of 1883.

I should much like to peruse the draft Bill, and, if you see no objection thereto, to be furnished with a copy thereof and of the draft Objects and Reasons.

It has always been a matter of surprise to me that no Act analogous to the Bills of Sale Act, 1854 and 1866 (re-enacted with alterations by the Bills of Sale Act, 1878—41 and 42 Vic., cap. 31), has been passed in India. It is a matter of every-day experience to find the whole of the stock-in-trade of an insolvent assigned to some bank, or other individual creditor, who, if he gets wind of the insolvency-proceedings, takes possession before a vesting order can be made by the Court, and so sweeps off the whole of the assets.

Registration is at present voluntary only, but even if the parties to the bill of sale agreed to register, the public would be none the wiser, as Book 1 of the register, which is confined to transfers of immoveable property, is the only register which the public are entitled to search.

I drew the attention of my friend Mr. Pitt-Kennedy, when he was in the Legislative Council, and also of Mr. Whitley Stokes, to this, but nothing has ever been done to remove this evil.

I venture to bring this matter to your notice now, as such a Bill as is required would be a valuable adjunct to the proposed new Bankruptcy Law.

From the Chief Secretary to Government, Madras, to the Secretary to the Government of India, Legislative Department, dated 22nd September 1885, No. 2554.

With reference to your letter of the 17th June last, No. 1039, I am directed to forward copy of the opinions of the Honorable Mr. Justice Handley, the Advocate-General, the Chamber of Commerce, and of certain selected officers on the draft Bill to amend the law of Bankruptcy and Insolvency in British India, and to state that His Excellency the Governor in Council approves generally of the provisions of the Bill.

2. With reference to the remarks contained in the minute of Mr. Justice Handley, the views of the other Honorable Judges will be requested upon the point raised by him, and any remarks which they may offer will be communicated in due course.

From the Government Solicitor, Madras, to the Chief Secretary to Government, Madras, dated 27th July 1885, No. 261.

ABSTRACT.—Forwarding the following opinion of the Advocate-General, dated 27th July 1885 :—

OPINION.

With reference to the Order of Government, Judicial Department, dated the 30th June 1885, No. 1722, I have the honor to make the following observations upon the Bill to amend and consolidate the law of Bankruptcy and Insolvency in British India.

2. From sections 5 and 7 read in conjunction with section 82, it appears that the provisions of the Bill are not applicable to up-country traders not having a place of business in one of the towns named in section 82. Now, as there must be many instances of traders, European and Native, so circumstanced for whom in the event of their failure the machinery of this Bill would be more fitted than that of the Procedure Code, I would suggest that an exceptional jurisdiction should be given to the High Court in such cases. The jurisdiction might be limited by reference to the amount of the debts and to the proportion of the creditors not residing within the jurisdiction of the Court to which the debtor would ordinarily be subject.

3. With a view to the common case of the wealthy member of a firm keeping in the back-ground and allowing a comparative pauper, in whose name the business has been carried on, to file his petition and schedule, I would suggest that the debtor be expressly required to disclose the name of his partners, and that concealment of the existence of partners should be made penal. This disclosure is required in the case which section 102 is designed to serve. Where proceedings are taken in the name of a firm under that section, I apprehend that only the persons named as members of the firm could obtain their discharge. All who desire to obtain their discharge as members of a firm would thus, in their own interest, take care that their names were disclosed. It is not clear, therefore, why, for the case to which section 102 applies, provision for the disclosure of partners, names should be made, and why it should not be extended to all cases indifferently.

4. Unless I have misunderstood the Bill, it seems that the secured creditor may, notwithstanding that the property was vested in a trustee under the Act, still proceed to realize his security. If this is so, I would ask why he is not protected against the operation of section 40.

5. I would suggest, too, that the phrase "secured creditor," which is used in section 8 (2), in section 33 and in the rules should also be used in section 39.

(Signed) H. H. SHEPHARD,
Acting Advocate-General.

From R. S. BENSON, ESQ., Acting Registrar, High Court, Madras, to the Chief Secretary to Government, Madras, dated 31st July 1885, No. 2136.

With reference to G.O., dated the 30th June 1885, No. 1722, Judicial, forwarding for the opinion of the Honorable the Judges copies of the draft Bill to amend the Law of Bankruptcy and Insolvency in British India with draft Statement of Objects and Reasons, I am directed to state that Messrs. Hutchins and Parker, JJ., have no observations to offer on the Bill.

2. Any minutes that may be recorded by the Honorable the Officiating Chief Justice and the other Judges will be forwarded hereafter.

From the Honorable T. RAMA ROW, to the Chief Secretary to Government, Madras, dated 1st August 1885.

With reference to the Order of Government, dated 30th June 1885, No. 1722, Judicial, I have the honor to submit the following memorandum containing my opinion on the provisions of the Bill to amend the Law of Indian Bankruptcy and Insolvency.

2. It is an admitted fact that the present insolvency law of the Presidency-towns, namely, 11 and 12 Vic., cap. 21, is very cumbrous and defective, and I am glad to find that the Bill in question has been very properly prepared in conformity with the latest English Statute, 46 and 47 Vic., cap. 52, inasmuch as the various decisions of the English Courts on that Statute can serve as a safe guide to the construction of doubtful and difficult parts of the Bill.

3. In section 88 of the Bill provision is made for the delegation to a Judge of the Presidency Small Cause Court by the High Court of its insolvency jurisdiction within certain limits. This, I think, was very much needed, and will enable the High Court to transfer to the Court of Small Causes all petty business in the matters of insolvency. Further, the Small Cause Court at Madras did formerly possess this insolvency jurisdiction, and the present Bill simply restores this power, of which it has been recently deprived by legislation.

4. Having made these general observations, I now proceed to make a few remarks on certain sections of the Bill having in view the peculiar circumstances and status of the people in India.

5. *Section* 5 (1) *a*.—A creditor under this clause cannot present a bankruptcy petition against a debtor, unless the debt due to him amounts to Rupees 500. It is true that the English Statute, 46 and 47 Vic., cap. 52, section 6, contains similar provision, and fixes the amount to £50; but considering the nature and extent of dealings among Hindus and the provisions in the Bill restoring the insolvency jurisdiction to the Presidency Small Cause Courts, I think the amount may be reduced to Rupees 250.

Section 15, *Sub-section* (4).—All the penal clauses in the Bill appear in Part VIII. I therefore suggest that the penal clauses in the latter part of the sub-section may conveniently be inserted in Part VIII.

Section 27, *Sub-section* (3), *Clause* (*a*).—I believe that the present Bill is intended to include within its scope the cases of insolvents who are not traders. If so, I think it is very desirable that some distinction should be made between these two classes of people in the matter of production of books of account, &c.

As a general rule, very few people who are not traders keep any account of their income and expenditure, and it will be a very great hardship to refuse an order of discharge to such people, simply because they failed to keep proper books of account showing their financial position within three years preceding their bankruptcy.

Section 34, *Sub-section* (1) *Clauses* (*b*) & (*c*).—The phraseology in these clauses is almost the same as in the corresponding section of the English statute, only altering £50 to Rupees 500. Considering the comparative cheapness of labor and wages of servants in India, I think that, in the distribution of the property of a bankrupt, priority under this head should be limited to Rupees 200 and not more.

Section 38, *Sub-section* (2).—No doubt the tools (if any) of a bankrupt's trade and the necessary wearing apparel and bedding of himself, his wife and children, should be exempted from the division of his property amongst his creditors; but the only question here is to what extent the exemption should be limited. I think the sum of Rupees 200 is too much, and it may be reduced to Rupees 50.

Section 65, *Sub-section* (4).—I do not think that a trustee should be allowed to retain any sum exceeding Rupees 250 without special authority from the Court This sub-section, as it now stands, fixes once for all the rate of interest payable by the trustee as penalty on the excess amount retained by him. I think it would be better to leave to the discretion of the Court to settle the rate of interest in each case, but fixing the maximum rate only in the Bill.

Section 112.—This section renders a married woman subject to this Act in respect of her separate property. I do not find any definition of "separate property" in the Bill. The words "separate property," when applied to an English woman, are well understood, but serious difficulties will arise the moment we begin to apply the same to Hindu women. No doubt, section 2 of Act III of 1874 contains a definition of the words "separate property," but that enactment has no application whatever to the cases of married women professing Hindu or Muhammadan faith, &c. Further, the said definition does not include all kinds of sridhanam property of a Hindu married woman. There are several kinds of sridhanam property under Hindu law, and a Hindu woman does not possess the same powers of disposal, alienation and enjoyment over all of them. Again, the Hindu law, as administered in Bengal and Bombay on this subject, most materially differs on some very essential points from the law of this Presidency. I therefore think this section must be altered to meet all these difficulties.

Section 131.—This section does not allow vakils to appear for bankrupts before the High Courts in the exercise of their insolvency jurisdiction. In Madras, vakils have been allowed to appear and act on behalf on all suitors in the High Court in the exercise of its ordinary original civil jurisdiction, and this concession appears to have been made owing to the comparatively indigent state of circumstances of suitors, and their inability to employ the double agency of a solicitor and barrister. It, therefore, appears to me nothing but just and charitable to permit bankrupts to employ vakils on their behalf, instead of compelling them to resort to the very expensive process of employing a double agency to defend their cause. I therefore propose that this section may be altered as follows:—"Nothing in this Act, or in any transfer of this jurisdiction effected thereby shall take away or affect any right of audience that any person may have had at the commencement of this Act, and all solicitors or other persons, who have the right of audience before the High Courts of Judicature in the exercise of their ordinary original civil jurisdiction, shall have the like right of audience in bankruptcy matters in the High Courts of Judicature aforesaid."

In Part VIII no provision is made for the punishment of a debtor who does not disclose the names of all his partners under section 102. I think that the concealment by a debtor of the existence of partners must be rendered penal, inasmuch as it is a very common case for an affluent member of a firm to remain in the background and allow a pauper, in whose name the trade is carried on, to apply for the benefit of the Act.

From F. ROWLANDSON, ESQ., Attorney-at-Law, Madras, to the Chief Secretary to Government, dated 3rd August 1885.

I have the honor to forward herewith a memorandum on the draft Bill to amend, &c., the Law of Bankruptcy and Insolvency in British India.

MEMORANDUM.

Preliminary Remarks.—As only opinions on the provisions of the Bill submitted are asked for, it is probably not intended at this stage to open for discussion the necessity or expediency of passing an Insolvent Law in India which shall apply alike to the English speculator and the Hindu Chetti.

Commercial tradition in Southern India asserts that the large and wealthy body of traders known as Nattucottai Chetties had not known the sin of insolvency but for the Insolvent Act.

The past history of the relations between commercial creditors and debtors amongst them differs *toto cœlo* from the cruel story of the causes which led English legislators to force upon English commerce an Act for the relief of insolvent debtors. Nor does the Native merchant recognize that necessity for the "whitewashing" of Basinghall Street which arises out of the Englishman's practical idolatry of the fetish "CREDIT."

No native, unless denaturalized by a business connection with Europeans, gives chance the place in his transaction which every European firm accords to it.

Where he gives credit against goods, he sees them; when to an individual, he goes into his circumstances in a way which is impossible to Englishmen.

The result is that no great crash amongst natives takes place. The wealthy man of one day has "bad luck," and his wealth goes to another, but no irrevocable ruin to either him or his creditors is worked; there is simply a change in relations. If a large trader fails in a Presidency-town, it will be found that the suffering creditors are Europeans, and this more especially where the bankrupt is himself a European. It is therefore no certain benefit that we give the native commerce of India in offering it a Bankruptcy Law of general application, and it would pehaps be better to let the similarity of procedure which Mr. Ilbert alludes to in paragraph 9 of his "Statement of Objects and Reasons" be confined to a law which shall affect only those who trade in both the places he refers to on the same lines. It is, however, to be assumed that it is settled that a Bankruptcy Act is to be passed.

As far as I can form an opinion, the Bill now submitted will work well, but I offer the following remarks upon it:—

Section 4.—Is it intended that this "receiving order" should have the same force as the "vesting order" under the old Insolvent Act? It would seem so, for it stays action on the part of creditors (section 8), and renders the debtor's alienation of property invalid [section 43 (1)]. It is possible under section 19 for a receiving order to be made, a debtor to be adjudged bankrupt, and his property to be vested in the (receiver or other) trustee, all in one day, but such prompt action cannot be often expected.

It is possible for a receiver to be appointed, and whilst no property of the debtor is vested in such receiver, because no adjudication order has been made, the debtor is practically powerless to deal with his assets. In some cases, as, for example, where the debtor is a hotel-keeper doing a business which should be carried on for the benefit of the creditors, this position of affairs might seriously prejudice the value of the bankrupt's assets.

The old "vesting order" which (section 7 of Indian Insolvent Act) "*by virtue of this Act*" related back to and took effect from the filing of the petition by a debtor or creditor, prevented any possible hiatus in the title to the assets, such as it would seem may arise under the provisions of the Bill.

I note contents of section 37, section 47, and of section 9 (1), but, until orders *by the Court* are made, the provisions of these sections have no effect; whereas the old "vesting order" related back by virtue of the Act.

Section 5 (1) (*d*) *and Section* 7 (1).—The use of the words "local limits" in these sections will be confusing, if not actually obstructive, where the High Court is concerned. A creditor who gets his debtor imprisoned in some small place will prevent his obtaining relief in bankruptcy by means of a debtor's petition; and a debtor who gets himself incarcerated in such a place by a colluding creditor will prevent his being adjudicated a bankrupt. For example, in the recent case of the insolvency of Stephenson, Nixon, and Co., a firm trading at Cocanada and Gopalpur, but the bulk of whose unsecured creditors were in the Presidency-town of Madras, the case of no partner complied with the conditions as to "local limits" of the High Court of Madras The words may have a special meaning attached to them in the Bill, but they already have an accepted meaning in connection with the High Courts. The confusion has been successfully avoided in the Probate and Administration Act of 1881, whereas in this Bill a possible clashing of jurisdictions had to be guarded against. The Bankruptcy Act, 1883, section 6 (1) (*d*) has "*England*" where this Bill has "local limits"

Section 27 (2).—Under this provision the Court will make allocations from income similar to those made under the Insolvent Act. The following difficulties have been experienced by the Official Assignee in working such orders. In one case an insolvent drawing between Rs. 300 and Rs. 400 a month was ordered to pay Rs. 84. He did so for a few months, and then wrote to say that the moiety of his salary had been attached by creditors subsequent to his insolvency, and that he could not make any more payments. In the majority of cases the Assignee every few months has had to enforce the order by the cumbrous process of obtaining first a rule *nisi* and then a rule absolute against the defaulter—a process which cost the estate Rupees 12 each time. To meet these contingencies I would suggest (1) that in the case of Government and *quasi*-Government *employés* the allocator do have the force of an attachment for a specified amount—probably one-third of the scheduled debts would be a proper sum to name; (2) that where the employers are private firms or individuals the creditors be compelled to name one of themselves as the trustee for the receipt and disbursement of the allocated amount and the enforcement of the order on default.

Section 39.—This provision is likely to give the trustee much trouble as it stands. The receiving or vesting order ought to override every other order of any Court which has not been given full effect to. For example, if assets have been sold under an execution order in pursuance of a decree, but the sale-proceeds have not passed out of the control of the Court ordering the execution, such sale-proceeds, subject to payment of expenses, should pass to the trustee. The throwing on the trustee the onus of proving "notice" is objectionable, and a knowledge of the bankruptcy proceedings may safely be assumed.

Section 42 (1).—This section will be found to work mischievously in practice I fear, and I would omit the words from "if the person making" down to "or suffering the same" altogether. If the intention is to give an unfair preference, such intention should be absolutely defeated without reference to any question of time. I would illustrate my meaning by the following imaginary case:—

X, Y, and Co. carry on business in London, and have the reputation of wealth, X being on the board of W, an Exchange Bank having a branch in Madras. Y and Co. are a smaller firm carrying on business in the Madras Presidency and enjoying considerable credit because of their known connection with X, Y, and Co., and because they are known to have large credit with the W bank. X, Y, and Co. stop

payment in London, but for fifteen weeks Y and Co. in India struggle on and apparently have the W bank as much at their backs as ever. The 16th week after X, Y, and Co. stopped, Y and Co. do the same, and then it proves that the W bank is more than sufficiently secured to the prejudice of the general body of creditors.

Section 88.—In Madras it will certainly prove a great benefit to delegate to a Small Cause Court Judge the disposal of a large percentage of bankruptcies.

It appears from the administration report of the High Court (now in the press) that out of 199 applications in the year 1884-85 only 28 were from traders and over 70 returned assets "*nil*."

Section 116.—If the services of an efficient officer are to be secured for the post of Official Receiver, it will be necessary—at all events in Madras—to make large estates that go into liquidation contribute. Liquidation should not be allowed except with permission of the Court, for the presence of bankruptcy proceedings to hold *in terrorem* over a debtor is an advantage to his creditors for which they are to pay, even if they wish to come to some private arrangement.

A clique of influential creditors will often secure the manipulation of a bankrupt estate for themselves to the prejudice of the bankrupt himself and of the creditors outside the clique.

From R. S. BENSON, ESQ., Acting Registrar, High Court of Madras, to the Chief Secretary to Government, Madras, dated 12th August 1885, No. 2266.

In continuation of my letter, dated 31st ultimo, No. 2136, I have the honor to forward a transcript of the minute recorded by Mr. Justice Handley on the draft Bill to amend the Law of Bankruptcy and Insolvency.

MINUTE.

I have not had time to consider the details of the Bill, but there is one point on which I should wish to express an opinion, and that is on the powers proposed to be given under section 88 to the Judges of the Presidency Small Cause Court. I consider that the power of dealing with small insolvencies would be much better delegated to the Registrar or some other official of the High Court who will be constantly in the way of seeing the working of the Act by the High Court.

2. The Small Cause Court has not the machinery for discharging the duties of a Bankruptcy or Insolvency Court, and such duties would seriously interfere with the ordinary work of the Court, whereas the Registrar or other officer of the High Court would be always conversant with the practice of the High Court under the Act, and would have no difficulty in dealing with such cases himself.

3. My experience as a Judge of the Small Cause Court of the Insolvent Jurisdiction under the Act with which that Court was for a time entrusted is against again giving it a jurisdiction in bankruptcy or insolvency.

From J. A. BOYSON, ESQ., Chairman, Chamber of Commerce, Madras, to the Chief Secretary to Government, Madras, dated 9th September 1885.

I have now the honor to acknowledge receipt of the Proceedings of Government, Judicial Department, 30th June, No. 1722, and the accompanying copies of the draft Bill of the Government of India to amend the Law of Bankruptcy and Insolvency in British India.

2. The Chamber observes that this Bill is not designed to be of general application throughout British India, but it will for the present affect only the Presidency-towns and a few commercial centres in India and Burma, the number of which the Government reserves the right to increase.

3. It has been ascertained by the Chamber that the present Insolvency Law in India (11 & 12 Vic., cap. 21) came into operation on the 1st August 1848. Since that time there have been no alterations in the law in India, whilst in England the following five Acts have been passed:—

(1) "The Bankrupt Law Consolidation Act, 1849" (12 & 13 Vic., cap. 106);
(2) "The Bankruptcy Act, 1854" (17 & 18 Vic., cap. 119);
(3) The Bankruptcy Act, 1861 (24 & 25 Vic., cap. 134);
(4) The Bankruptcy Act, 1869 (32 & 33 Vic., cap. 71); and
(5) The Bankruptcy Act, 1883 (46 & 47 Vic., cap. 52).

4. The present Indian Bankruptcy Bill has been prepared on the lines of the English Bankruptcy Act of 1883, which, as mentioned in the Statement of Objects and Reasons, embodies the accumulated experience of the thirty-five years which have elapsed since the passing of the Indian Insolvency Act. As the Chamber cannot claim to have any practical experience of the working of the English Act, it would be presumptuous on its part to criticise the details of the present Bill. It may suffice, therefore, to point out one or two matters which might be provided for in an Indian Insolvency Act, but of which no notice is taken in the Bill.

5. There should, the Chamber considers, be only one insolvency law administered in the three Presidency-towns and in Rangoon, Moulmein, Akyab, Bassein, and such towns as the Act may be eventually extended to, and it is suggested that chapter XX of the Civil Procedure Code should not apply to any Courts in those towns which have jurisdiction to administer the proposed new law.

6. It seems to the Chamber desirable that the High Court should have jurisdiction in insolvency matters over European British subjects within the presidency of such High Court. Hitherto the Madras High Court has held that European British subjects residing in the Madras Presidency were entitled to petition the Court for the benefit of the Act. It is contemplated by the proposed Act to give jurisdiction only in cases where the debtor is in prison within the local limits of the High Court, or has, within a year before the date of the presentation of the petition, ordinarily resided or had a place of business within those limits. A European merchant up-country would therefore have to be arrested and put into the civil gaol before he could obtain the benefit of the Act.

7. The omission of section 116 (2) of the English Act, 1883, from the present Bill, is deprecated by the Chamber. The section is as follows:—"No Registrar, or Official Receiver, or other officer attached to any Court having jurisdiction in bankruptcy shall, during his continuance in office, either directly

or indirectly, by himself, his clerk, or partner, act as solicitor in any proceedings in bankruptcy, or in any prosecution of a debtor by order of the Court, and if he does so act, he shall be liable to be dismissed from office." The Chamber is assured that experience has proved in England that this is a desirable clause.

8. I am further to suggest for consideration that some provision should be made to prevent proceedings in bankruptcy against a debtor continuing in two Courts at the same time. For instance, last year, in the High Court at Madras, a debtor was adjudicated an insolvent on the petition of a creditor; on the following day the debtor filed his petition in the High Court at Bombay, and insolvency proceedings have been going on ever since in both Courts. This must be an additional expense to all parties and prove most inconvenient, for both Courts have concurrent jurisdiction and claim the right to wind up the affairs of the insolvent. Section 85 of the proposed Act does not meet a case of this sort, for it only deals with the transfer of proceedings from the High Court of a province to itself, or to any other Court appointed in the province under section 82.

9. It has been objected to the Bill that it is unsuitable to Madras, because the cases of a large majority of insolvents in this city are of a petty nature, involving no intricate points of law, or any points that the existing law, with a few amendments, would not amply meet. But as the Chamber could not reasonably ask for special legislation for this Presidency, and as it approves of the great advance that it is proposed to take in the direction of a clearly defined bankruptcy law for the trading centres of the whole country, it trusts that the Bill may become law, since it seems to the Chamber to be a very complete measure.

From W. MORGAN, ESQ., Deputy Registrar, High Court of Judicature, Madras, to the Acting Chief Secretary to Government, Madras, dated 24th October 1885, No. 2827.

In continuation of this Court's letters, dated the 31st July and 12th August 1885, Nos. 2136 and 2266, respectively, I am directed to forward a transcript of the minute recorded by the Officiating Chief Justice on the draft Bill to amend the law of bankruptcy and insolvency in British India, with draft Statement of Objects and Reasons.

2. I am to state that Mr. Justice Muthusami Aiyar has no remarks to make.

Minute by the Officiating Chief Justice, Madras.

The proposed Bill, being drafted on the lines of the last English Bankruptcy Bill, is a satisfactory and convenient guide and rule of law and practice no doubt.

The following list will show the class of cases and of persons that are brought before the Insolvent Court in Madras:—

Year.	Merchants and Amounts of Debts.	Petty Merchants.	Government Servants.	Private Employés.	Pensioners.	Unemployed.
1880	6	19	17	73	11	30
	Rs. 21,221 15 8					
	,, 78,340 15 10					
	,, 9,081 12 8					
	,, 1,25,280 0 0					
	,, 2,03,016 9 10					
	,, 73,101 0 0					
1881	7	23	21	63	6	21
	Rs. 1,19,513 1 8					
	,, 16,123 8 6					
	,, 8,697 0 0					
	,, 8,115 5 9					
	,, 32,952 5 0					
	,, 24,973 5 3					
	,, 21,721 2 1					
1882	3	12	48	80	12	33
	Rs. 2,858 9 9					
	,, 36,174 3 1					
	,, 85,821 7 9					
1883	16	4	30	90	11	60
	Rs. 24,504 8 10					
	,, 1,919 9 4					
	,, 4,194 6 9					
	,, 5,312 10 9					
	,, 7,55,677 13 4					
	,, 9,721 0 5					
	,, 5,154 14 10					
	,, 3,060 3 1					
	,, 9,876 13 0					
	,, 53,600 0 0					
	,, 10,504 4 8					
	,, 2,80,316 10 3					
	No schedules filed in four numbers.					
1884	6	5	38	99	12	55
	Rs. 32,281 10 2					
	,, 82,739 11 6					
	,, 5,87,974 1 7					
	,, 1,10,146 2 8					
	,, 35,712 2 9					
	No schedule filed in one case.					

1st.—It will be seen that the number of cases of traders owing large debts is small—about between 15 and 20 per cent. of the whole. In many of those trading cases there are no assets available. Some 70 or 80 per cent. of the rest of the cases are Government and other clerks, who have no means except their salaries.

2nd.—During the last 14 or 15 years I have been the Judge who principally presided on the Insolvent Court, and I have found that the present Insolvent Act was capable of being worked satisfactorily in the class of cases brought before the Court.

3rd.—Section 103 of the proposed Act will apply to most cases in Madras, as much of the procedure suitable for cases where the debts are large and assets considerable will be unsuitable.

4th.—In the proposed Bill power is given to a creditor to put the Court in motion and to force an act of bankruptcy (but only after decree).

5th.—However, to enable the creditor to prevent concealment by the debtor of property, I think the procedure formerly in use in England and Ireland of "trader debtor summons" would be very useful. The proposed Bill, however, does not contemplate such procedure, and that procedure has been designedly abandoned in the English Act. A debtor in many cases, indeed in most cases, when sued, defends, and in the mean time, or perhaps before suit, puts out of the reach of creditor his property. It is very difficult, however, to prove the fact so as to establish as an act of bankruptcy, and when a decree is obtained there is no property to seize.

6th.—There are occasionally failures in the Mufassal of European and Native traders who possess considerable property, and it may be worth while considering whether, at the instance of creditors or in particular circumstances at the instance of the debtor, the parties might not be allowed to avail themselves of the new Act in the Court at Madras.

7th.—It has happened several times that the Official Assignee has recovered large assets, and that the debtor then effects a settlement out of Court and annuls the insolvency by consent. I think it advisable to make provision that such cases should bear a portion of commission of the Official Assignee.

8th.—I have read the proposed draft of the Act repealing the present statute, and think it requires no observations.

From W. WILSON, ESQ., Acting Chief Secretary to Government, Madras, to the Secretary to the Government of India, Legislative Department, dated 16th November 1885, No. 3093.

I am directed, in continuation of my letter of the 22nd September 1885, No. 2554, to forward copy of a letter from the Registrar, High Court, containing the remarks of the other Judges on the opinion expressed by Mr. Justice Handley with reference to section 88 of the Bankruptcy and Insolvency Bill.

From H. T. ROSS, ESQ., Acting Registrar, High Court of Judicature, Madras, to the Acting Chief Secretary to Government, Madras, dated 4th November 1885, No. 2900.

Adverting to G.O., dated 22nd September 1885, No. 2553, Judicial, I am directed to state that the Officiating Chief Justice and the other Honorable Judges of the High Court find themselves unable to agree with Mr. Justice Handley in his suggestion that the powers proposed to be given under section 88 of the Bankruptcy and Insolvency Bill would be better delegated to the Registrar or some other official of the High Court than to a Judge of the Presidency Small Cause Court.

2. It is certainly necessary that the Judge who presides in Bankruptcy and Insolvency should be familiar with the principles and practice of this branch of the law; but it does not appear to the Honorable Judges that the acquisition of this peculiar knowledge by one or other of the Small Cause Court Judges is likely to be a matter of difficulty.

3. It is possible that the measures now under consideration, for transferring a portion of the original work of the High Court to the Court of Small Causes, and for creating an additional Judgeship in the latter Court, may result in the appointment to the Small Cause Court of a Judge with precisely that experience which Mr. Justice Handley thinks wanting.

From H. BATTY, ESQ., Under Secretary to Government, Bombay, to the Secretary to the Government of India, Legislative Department, dated 17th December 1885, No. 8625.

I am directed to acknowledge the receipt of your letter, No. 1050, of the 17th June last, forwarding a draft of a Bill to amend and consolidate the Law of Bankruptcy and Insolvency in British India, and requesting to be favored with an expression of the opinion of this Government and also of the Honorable the Judges of the High Court and of such selected officers, commercial bodies and other persons as His Excellency the Governor in Council may think fit to consult on the subject.

2. In reply, I am desired to enclose copies of the opinions already received by Government in this matter, and to state that no reply has been received from the Honorable the Judges of the High Court, though it has been twice expedited.

1. Letter, &c., from the Chief Judge, Court of Small Causes, Bombay, No. 41, of 7th August 1885.
2. Letter from the Honorable the Advocate-General, Bombay, No. 59, of 14th September 1885.
3. Letter from the Secretary, Chamber of Commerce, Bombay, of 25th November 1885.

3. His Excellency the Governor in Council, I am to observe, approves generally of the provisions of the draft Bill, and considers that the clause which it is proposed to insert in the enabling Act of Parliament, legalizing retrospectively the rules made by the High Court of Bombay on the 31st July 1878, is sufficient for the purpose.

4. His Excellency in Council is disposed to agree with the Honorable the Advocate-General, Bombay, that the large powers given to creditors (sections 17, 20, 21, and 22) to control the administration of a bankrupt's estate are likely to be dangerous in this country and to reproduce the abuses

which were prevalent under Bombay Act XXVIII of 1865. It will be seen that the Chamber of Commerce express the same apprehension.

5. His Excellency the Governor in Council is not, as at present advised, in favor of the delegation of an insolvency-jurisdiction to the Court of Small Causes in Bombay. In England such powers may be delegated to the Registrar, but this officer has the staff of the Bankruptcy Court at his command, while neither the Judges of the Small Cause Court nor its establishment have any knowledge of such business. Moreover, the Judges are already overworked, and the new duties would involve the expense of adding to their number. On the other hand, the Clerk and Sealer of the Insolvent Debtors Court in Bombay is a Barrister of standing, with large emoluments and very little to do. It would, in the opinion of His Excellency in Council, be better to relieve the High Court by delegating to this officer jurisdiction in small bankruptcies (Part VII).

6. If the power of delegating jurisdiction to Judges of the Small Cause Courts be retained, there does not seem, in the opinion of His Excellency in Council, to be sufficient reason for withholding from them the power of committing for contempt of Court (section 88, clause (3), of the draft Bill).

7. In conclusion, I am to state that, in the opinion of His Excellency the Governor in Council, it is worthy of consideration whether in this country it is necessary to arm the creditor with all the weapons which are placed at his disposal by the English Bankruptcy Act, seeing that he already has the power of imprisoning his debtor, which the English creditor has not. On this point the observations of the Chief Judge of the Court of Small Causes at Bombay appear to deserve attention.

From W. E. HART, ESQ., Chief Judge, Bombay Court of Small Causes, to the Chief Secretary to Government, Bombay, dated 7th August 1885, No. 41.

In compliance with paragraph 2 of Government Resolution in the Judicial Department, No. 4604, dated 1st ultimo, I have the honor to forward the accompanying memorandum embodying my opinion on the draft Indian Bankruptcy Bill.

I may add that my colleagues, to whom my memorandum has been circulated, concur in the opinion I have expressed that the jurisdiction proposed to be given to this Court should be conferred on an officer of the existing Insolvent Court.

Memorandum by W. E. HART, ESQ., Chief Judge, Bombay Court of Small Causes, dated 16th July 1885.

I have not sufficient leisure to be able within any reasonable time to offer anything like an exhaustive opinion on all the provisions of an enactment of the scope and length of this Bill. This is however, the less to be regretted, as Government will doubtless have the advantage of the opinions of the Commissioner in Insolvency and the Official Assignee, whose knowledge and experience of the working of the present law will enable them to offer remarks more likely to be valuable in matters of detail than any I can make, for mine would, for the most part, be based on hearsay and conjecture, since no portion of the present insolvency law has ever been administered in the Small Cause Court of this Presidency as it has in that of Madras. I shall, therefore, enlarge only on those particular provisions which seem most likely to affect the Small Cause Court.

2. Part VI is that which deals with the constitution, procedure and powers of the Bankruptcy Courts; section 88 provides for the delegation by the High Court of certain of its powers in bankruptcy to a Judge of the Presidency Small Cause Court.

3. In commenting on a proposal in 1879 to give the Presidency Small Cause Courts an insolvency-jurisdiction, I expressed a strong opinion against the advisability of such a course. To that opinion, and for the reasons there given, in which I pointed out various objections and difficulties, I still adhere, and, for the sake of brevity, beg to refer Government to the annexed extract for an expression of my opinion on the general question of conferring an insolvency-jurisdiction on a Court constituted in the manner and for the purposes of the Small Cause Court.

4. As regards the particular provision of the present Bill, I would point out that with our present staff it is quite impossible for us to undertake any more work than we have at present. Of course this objection could be obviated by additions to the Court and office establishment; but this would entail an additional expense which I think would not be compensated by the value of the work done in insolvency. On the other hand, it seems to me that all the work which the Bill proposes should be done by a Judge of the Small Cause Court could be equally well done by the Clerk and Sealer of the Insolvent Court. This is an appointment which, so far as I know, has always been held by a barrister-at-law; but to ensure the selection of a person of position, capacity, and character for the post, some provision might be inserted in the Act. I once held the acting appointment myself for a short time, and am therefore speaking from experience when I say that the duties are extremely light while the emoluments are considerable. If to the present duties of the Clerk and Sealer, which (except on Wednesdays, when he is engaged in Court before the Commissioner for the whole day,) occupy about half an hour a day or less, were added those which section 88 proposes to confer on a Judge of the Small Cause Court, the object which that section has in view (namely, the relieving of the High Court of a portion of its less responsible work) would be attained without incurring any additional expense, and the Clerk and Sealer would be usefully employed to an extent more commensurate than at present with the income he enjoys.

5. If the jurisdiction in bankruptcy is conferred on a Judge of the Small Cause Court, I do not think the power to commit for contempt should be taken from him, as in section 88 (3), at least for a contempt committed in his presence. It is advisable that every Court should have this power for its own protection; and in the discharge of its ordinary functions the Small Cause Court enjoys it under the provisions of the Small Cause Courts Act. I do not therefore see why it should be taken away simply by reason of the Small Cause Court acting as a Bankruptcy Court, and only while it is so doing

6. It also seems to me open to objection that while the appointment with limited powers contemplated by section 88 is one in the hands of the High Court, it should be possible for the Local Government to appoint the same person not only without such limitation, but even with a jurisdiction more extensive than the High Court itself. This lets in a possibility of conflict, or at least of confusion, which ought in all matters of jurisdiction to be most scrupulously avoided. Section 82 (*c*) confers bankruptcy-jurisdiction on any Civil Court in the Presidency appointed by the Local Government, with the sanction of the Supreme Government. Section 83 (*a*) limits the bankruptcy-jurisdiction of the High Court to the local limits of its original civil jurisdiction. But section 83 (*c*) leaves it to the Local Government, with the sanction of the Supreme Government, to fix the limits of the jurisdiction of a Court appointed under section 82 (*c*). There is nothing apparently to prevent the Local Government appointing the Presidency Small Cause Court under section 82 (*c*), in which case its powers would be equal to those of the High Court. But if its jurisdiction under section 83 (*c*) were defined to include, say, the township of Coorla, the Small Cause Court would enjoy a jurisdiction more extensive than the High Court. Such provisions seem liable somewhat to conflict with the authority to delegate limited powers reserved to the High Court by section 88. If it is considered necessary that such authority should be exercised rather by the High Court than by the Local Government, I should advise the insertion of words in section 82 (*c*) restricting the power of the Local Government to the appointment of Courts situate without the local limits of the jurisdiction of the High Court.

7. In section 91 (*a*) I should prefer the insertion of words making it clear that an appeal from the order of a Small Cause Court Judge appointed under section 88 (if that section be enacted) lies to the High Court.

8. These are all the sections that seem to me specially to affect the Small Cause Court. I will now offer a few remarks, as shortly as possible, suggested by a cursory perusal of the general provisions of the Bill as they now stand.

9. *Section* 3 (1) (*b*).—It would be advisable to define carefully what conveyance is fraudulent in a country like this, where *bénámi* transactions are rather the rule than the exception, and in an Act which, to judge from section 82 (*c*), is intended to be capable of application by Native Judges in the Mufassal, who for the most part have not the opportunity of acquainting themselves with the English decisions.

10. *Section* 3 (1) (*d*), (*e*) *&* (*g*).—These provisions put into the hands of creditors a very powerful weapon, capable of being used for purposes of intimidation, oppression and extortion. In England, a rich commercial country, such provisions may have been found necessary for the protection of creditors after the power of imprisoning their debtors in execution of their decrees had been taken from them. But in this country, where the system of imprisonment for debt still exists, and where the majority of the population are non-traders, but little removed above the degree of paupers, and of whom the greater number are insolvent in fact, if not in name, I think such provisions are not only unnecessary but unwise, as they are sure to be used by the foreign money-lenders, who constitute the bulk of the creditors, for purposes of extortion, with the result of further depauperising their already sufficiently impoverished victims, on whom they already have a sufficient hold in the facilities afforded by the law administered by our Civil Courts for attachment of person and goods both before and after judgment, attachment of wages, debts due, property in hands of third parties, &c.

11. *Section* 7 (1).—Is it intended that a judgment-debtor under a decree, say, of the Calcutta Small Cause Court, who, after partial satisfaction of the decree by attachment of his goods at Calcutta, absconds to Bombay, and is there arrested under the Calcutta decree sent for execution to the Bombay Small Cause Court, shall be able to invoke the assistance of the Bankruptcy Court at Bombay, where he has no creditors? This would cause great inconvenience to the creditors at Calcutta, where the original act of bankruptcy was committed [section 3 (1) (*e*)], and where all the proofs are, and would give a good deal of unnecessary trouble to the Bombay Bankruptcy Court. I think, too, the limit of the period for which, as well as of the period *within* which, a debtor has "ordinarily resided" should be defined, so as to prevent a person changing his residence merely for the purpose of getting his discharge from a Court in the jurisdiction of which he has no creditors.

12. Much of the procedure laid down in Part I of the Act seems to me to be unsuitable for universal application in this country. In this Presidency, at least, the majority of insolvencies are for comparatively small amounts, and a large proportion of them are of persons not engaged in trade. In such cases I am inclined to think a procedure copied from Statute 46 & 47 Vic., cap. 52, which was framed for general application in a great commercial country, will here in many cases be found unnecessarily cumbersome and expensive. If the assimilation of the bankruptcy law in two countries so differently circumstanced as England and India be really considered necessary or advisable, I should recommend the assimilation, at least at first, to be confined to persons occupying somewhat similar positions; and to this end I would preserve the distinction between traders and non-traders which this Act abolishes, applying only to the former those provisions which are specially adapted to and useful in the case of a commercial bankruptcy, but which in the case of a non-trader will impede rather than expedite the distribution of his assets among his creditors.

13. *Section* 31 (2).—I think this provision will be found to work very harshly against the debtor, and not to benefit the general body of creditors. In this country the very great majority of the population are entirely dependent, even for the necessaries of life, on the money-lenders. These men at present often obtain a decree on a promissory note merely to save the statutory bar of limitation, and then proceed, perhaps, to partial execution against the goods, but still continue the debtor's credit in making him further petty loans. This, of course, they will not do if they are to be debarred from proving these in case of the debtor's ultimate bankruptcy no matter at how long a period after, by reason of the act of bankruptcy committed by execution of the first decree. I would recommend the bar to be, not notice of the first act of bankruptcy, but notice of the presentation of a bankruptcy-petition either by a creditor or the debtor.

14. *Section* 39 (1).—For the same reason I would omit "or of the commission of any available act of bankruptcy by the debtor."

15. *Section* 40 (2).—This exemption apparently only protects the purchaser at a Court's sale from the consequence of the act of bankruptcy committed in *that* sale. But it often happens that several sales take place at different times in partial execution of the same decree. Apparently the purchaser at a subsequent sale would be protected from the consequences of the act of bankruptcy committed in that sale, but not from those of one committed in a prior sale in respect of the same decree.

16. *Section* 43 (2).—So, again, it would appear that if a debtor, against whom his creditor had obtained a decree which was partially satisfied by execution, afterwards paid to the creditor a portion of the balance due on his decree, such payment might be avoided in case of the debtor's subsequent bankruptcy, because at that date there was "available" the "act of bankruptcy" in the partial execution which, of course, was known to the execution-creditor at the time of the further part-payment.

17. I think the objection already noticed in respect of the general application of Part I also applies in a great measure to that of Parts V and VI.

18. *Sections* 105 *to* 110.—I think these provisions, so far as they relate to debtors, are open to much the same objection as that pointed out in regard to section 3 (1) (*d*), (*e*), (*g*). They are taken from an English Act framed when imprisonment for debt had been abolished, which it has not yet been in India, where the creditors consequently do not require so much protection as in England, and where they are more likely to use such provisions for purposes of intimidation, oppression and extortion. *Section* 105 (*m*) I consider especially objectionable both on these grounds and on those pointed out in regard to section 31 (2).

19. *Section* 115 (3) *and* (4) *and Section* 116.—I think it would be advisable to make some provision for the validity of rules and levy of fees *ad interim*.

20. In regard to the general scope of the proposed Act, as disclosed by the Statement of Objects and Reasons, the draftsman would appear to have formed the enactment mainly on the lines of the present bankruptcy law of England as last amended by the Statute 46 & 47 Vic., cap. 52, because, as he says (paragraphs 9 and 10), "it is eminently desirable that the circumstances under which a debtor may be declared insolvent, and under which he may obtain his discharge, should be, as far as possible, the same in London and Calcutta;" and while the new Act should be "adapted in details to Indian circumstances," it "should follow the English Act as closely as possible, except where there is some substantial reason for taking a different course."

21. I for one do not see this "eminent desirability" in the case of two countries so differently circumstanced as India and England. No doubt it may be a convenience to English merchants in Calcutta and England that they should all be subject to the same law; but in legislating for India generally we have to consult something more than the convenience or wishes or wants of a handful of foreigners. From the mere fact that a certain enactment is found to work well in England (assuming that the English Act does work well there, as to which there would appear to be some difference of opinion among experts), it is not a safe, nor even probable, inference that it would in any way be suitable to a country so differently circumstanced as India. England is a rich commercial and manufacturing country; India is a poor agricultural one. The ordinary Englishman is substantial and independent; the ordinary Indian is an insolvent pauper, hopelessly indebted to his Marwari money-lender. The money-lender's profits in England are, as a rule, spent in the country; in India they are, as a rule, sent abroad, thus acting as an incessant drain on the resources of the most impoverished classes. A large proportion of the English bankrupts are traders; in India a large proportion are non-traders. England has been for centuries in the van of European progress, profiting by the slow growth of a civilization born of native Western ideas, self-acquired and assimilated into her very being; India has barely emerged from oriental semi-barbarism, and such civilization as she has is, for the most part, of foreign origin, which had already attained maturity abroad before its importation, and has as yet been only very partially adopted here. The lowest ranks of workers in English society form, compared with Indian, a small proportion of the population, and non-workers among the poorer classes are an insignificant item; in India the lowest ranks of workers form a very large majority (about five-sevenths) of the entire community, while the non-workers form a considerable proportion of the poorest classes. In England the judgment-debtor has for years been relieved from the depressing and disabling effects of the system of imprisonment for debt, which in India is still a powerful engine of extortion in the hands of the money-lender, and freely used for the further depauperisation of the most impoverished class.

22. The poorest classes in England, as compared with those in India, are infinitely superior in material wealth, in resources of employment, in education and intellectual activity, and they are in a far smaller numerical proportion to the general community. When we find the two countries circumstanced so differently in regard to the bulk of their population, it seems to me that any law regulating the relations between debtor and creditor must of necessity differ, not in "details" only, but in "general principles;" at least, I submit, the onus of producing a "substantial reason" is rather on those who advocate assimilation than on those who argue, from the difference of circumstances, the necessity for a difference in the law to be applied to them.

Extract, paragraphs 13 to 19, from letter from Chief Judge, Bombay Court of Small Causes, to the Secretary to Government, Bombay, dated 7th April 1879, No. 9.

"13. Against the advantages so to be gained by the proposed change (namely, the saving of a few hours for the trial of long causes on the original side and the saving of a few rupees in professional costs) must be set off what appear to me to be far more than compensating inconveniences which will result to the general public, to the insolvents and their creditors and to the officials of the Insolvent Court.

"14. In the first place, supposing only those unimportant or unopposed cases which at present take up about three hours in a fortnight of the Commissioner's time were transferred to the Small Cause Court; to this extent at least the Judges of the Small Cause Court must divert to insolvency-matters the time which would otherwise be spent in the interests of the general body of litigants.

During the three hours so spent from 30 to 40 of those small causes might have been heard and decided, the speedy adjudication of which is the *raison d'etrê* of the Court.

"15. In the next place, if the insolvency-work be divided between the High Court and the Small Cause Court, it will be necessary either to have two separate office establishments, or to be constantly transporting the Insolvent Court officials, witht heir books, papers, &c., from their present head-quarters in the High Court building to the Small Cause Court, a distance of about a mile, and back.

"16. The former of these two courses would probably be both the more expensive and the more inconvenient to the public. It would involve the appointing of a new Clerk of the Court and a new Official Assignee, which appointments, having regard to the provisions of the Statute 11 Vic., cap. 21, I am inclined to think it is not within the competence of the Indian Legislature to make. It would also involve the employment of several additional inferior officials, such as clerks, cashiers, and the like. It would further occasion considerable inconvenience to creditors seeking inspection of books, &c., and sometimes necessitate the payment of searching-fees in both offices, especially after the lapse of some years, when it would become necessary to make inspection of old cases. Again, much difficulty and loss to the estate would be occasioned if different members of a Hindu family, or different partners in a firm, became insolvent separately, and went some to the one Official Assignee and some to the other; the difficulty would be doubled of giving titles to purchasers, and consequently of getting fair prices for the properties sold.

"17. On the other hand, if the present establishment were required to work in two places at such a distance from each other as the High Court and Small Cause Court, there would be a great increase of expense and waste of time and almost infinite inconvenience to the officials of the Insolvent Court. About six additional clerks would have to be employed; and considerable expense would be incurred in the carriage of books, papers and proceedings, while more than the time gained to the Court by the despatch of cases would be lost to the office *eundo morando et revertendo* between the two Courts.

"18. I believe that in Madras the sections of the Civil Procedure Code relating to insolvency have been applied by Resolution of the Local Government to the Small Cause Court. This has not been done here, and I do not think, if it were done, any material advantage would result, or that many applications would be made by persons seeking the benefit of these sections. The provisions of the Civil Procedure Code cannot avail until after judgment has passed and the judgment-debtor has actually been arrested. On the other hand, any person may avail himself of the provisions of the Statute 11 Vic., cap. 21, at any time, and thus avoid arrest, or obtain his discharge. Almost all debtors would, therefore, I presume, naturally prefer to take advantage of the last-mentioned enactment.

"19. For all these reasons, and because I am unable to suggest any other method than those already discussed, which will not be open to the same objections, whereby an insolvency-jurisdiction could be conferred upon the Presidency Small Cause Courts, I am of opinion that no such jurisdiction should be conferred. I will only add that if the real object of the proposed extension be merely to relieve the High Court of a portion of its labor, by removing from its cognizance the bulk of unimportant and unopposed insolvency-cases, precisely this result could be attained without incurring any expense and without adding to the work of any other Court by the abolition of the present system of imprisonment for debt; for it is simply to avoid arrest, or to escape from imprisonment, that the great majority, if not all, of the unopposed insolvents apply for the benefit of the Act."

From the HONORABLE F. L. LATHAM, Advocate-General, Bombay, to the Under Secretary to Government, Bombay, dated 14th September 1885, No. 59.

With reference to the proposed Bill to amend and consolidate the Law of Bankruptcy and Insolvency in British India, I have the honor to offer the following remarks.

The Bill is avowedly an adoption, almost a transcript, of the last English Bankruptcy Act—that of 1883. So many systems of bankruptcy have been tried and found defective in England that I cannot help thinking that it would be well to see how this latest system bears the test of experience before transplanting it to India. A short time will show whether the Act of 1883 is fitted to become the permanent law of bankruptcy, and which of its provisions require repeal or alteration; and the present insolvency law of India, which, though imperfect, does not on the whole work badly, may without any serious inconvenience be allowed to remain in operation for that short time.

2. The most striking difference between the proposed Bill and the present law is the large power given to creditors to control the administration of the bankrupt's estate. Section 17 allows the creditors before adjudication by a majority of three-fourths, and subject to the approval of the Court, to resolve on a composition or on a scheme of assignment of the debtor's affairs; section 20 (2) allows the creditors, if the Court declare such an appointment desirable, to appoint a person other than the Official Receiver to be trustee of the property of the bankrupt; section 21 allows the creditors to appoint a committee of inspection; section 22 allows the creditors, after the adjudication, to approve of a composition or scheme of assignment subject to the approval of the Court. I confess that I dread lest the effect of these sections should be to facilitate fraud and to lead to a manipulation of the provisions of the Act in favor of the bankrupt. Even now the schedules of insolvents are often filled with fictitious debts in favor of his relatives and friends, and when under Act XXVII of 1865 the temptation to this form of fraud was greater it was notoriously prevalent—I might say universal. I observe that the approval of the Court is made a condition to the exercise of these powers by the creditors. But such an approval is apt to become a mere formality when the responsibility of the initiative is not with the Court itself. I should prefer to have the Official Receiver trustee in every case, and to insist that any composition or scheme of assignment should be directed by the Court either on the motion and after hearing the Official Receiver.

3. I think that section 2 will not in its present form have the effect desired by the framers of the Bill. Comparing it with section 2 of the English Act, I think it would be construed to refer to the extent of the Bill as regards its effect as a form of procedure against a debtor and would nullify the whole Bill—*vide* William's *Bankruptcy Law and Practice* (3rd edition), page 1.

4. Section 8, which gives the debtor immediate protection from process against his person as soon as a receiving order is made, is a most important change in the present law. At present the great

struggle in insolvency-proceedings is as to the granting or refusing an *interim* order of protection; there is, comparatively speaking, no contest as to the grant of final orders. It seems to me that the section in its present form is adapted to a state of the law in which imprisonment for debt has almost ceased to exist, whereas in India it is still one of the main remedies by which the execution of decrees is enforced.

5. Section 16 is, in my opinion, a most wholesome provision, though, unless the Court has power to dispense with it in small and unopposed bankruptcies, an increase of the number of Judges will be required. I would make it plain that the Official Receiver and also any creditor may examine the debtor by counsel or solicitor. The requisition of signature by the debtor in (8) should be struck out, as it will tend to nullify the effects of the section. The official record of the evidence is sufficient security for accuracy.

6. In section 59 I do not think that the Chief Justice should have power to remove the Official Receiver at his discretion without good cause.

7. Sections 65 and 67 do not make it clear what is to be done with the interest accruing on the estates of bankrupts. It ought in justice to belong to the estate.

8. I doubt section 88, allowing the delegation of certain powers to the Judges of the Presidency Small Cause Courts, being of any practical use. It is adapted from the provisions of the English Act allowing the delegation of powers from the Judge to the Registrar. But the Registrar has the command of the staff of the Bankruptcy Court, which would not be the case with the Small Cause Court Judge. If anything be done in this direction, I think it should rather be to transfer bankruptcies of small estates to the Small Cause Courts. But I doubt any saving of judicial time or expense being so effected.

9. Part VII, as to small bankruptcies, is a wholesome provision as the Act now stands. But I am inclined to think that in India all bankruptcies should be dealt with in the manner prescribed by that Part.

From J. MARSHALL, ESQ., Secretary, Bombay Chamber of Commerce, to the Acting Under Secretary to Government, Bombay, dated 25th November 1885.

I am directed to acknowledge the receipt of your letter, No. 4606, dated 1st July last, forwarding copy of a draft Bill to amend and consolidate the Law of Bankruptcy and Insolvency in British India, and requesting that Government may be favored with the opinion of the Chamber of Commerce thereon.

The Bill was referred to a special Committee, consisting of the Honorable F. Forbes Adam, of Messrs. W. and A. Graham and Co., Chairman of the Chamber; Mr. A. F. Beaufort, of Messrs. Lyon and Co., Deputy Chairman; Mr. W. A. Baker, Manager, National Bank of India (Limited); Mr. E. Miller, of Messrs. C. Macdonald and Co., Mr. J. H. Slight, Deputy Secretary and Treasurer, Bank of Bombay, and Mr. Vizbucandas Atmaram, of Messrs. Narandas Lajaram and Co.; and their report having been approved, the Chamber has now the honor to submit its opinion on the provisions of the Bill.

Some little delay has taken place in forwarding the report to Government, as the Chamber was anxious to obtain the views of business people at home on the actual working of the English Bankruptcy Act of 1883. These, however, not having come to hand, the Chamber will take the liberty of embodying in a supplementary report any additional information which may hereafter be received in response to the inquiries instituted.

The Bill has been read through and discussed clause by clause, and subjoined will be found in detail the additions and emendations which the Chamber considers desirable. Before proceeding to the discussion of the provisions of the Bill however, the Chamber had to consider two broad questions—first, whether in the existing state of things a new Insolvency Act was called for; and, second, whether in that event the general principles of the proposed Bill were thoroughly adapted to the requirements of the trading community and to the conditions attending insolvency in India.

To the first question the answer was unanimously in the affirmative. The necessity of a radical reform in the bankruptcy law for India has long been keenly felt by the mercantile public, and has on numerous occasions been the subject of anxious consideration. In the address with which the Chamber had the honor to welcome the arrival in India of His Excellency the Viceroy, the matter was prominently mentioned as one of pressing importance; and, had it not become known that the Bill now under report was in preparation, it was the intention of the Chamber to memorialise Government begging that action might be taken at the earliest possible opportunity.

The second question did not admit of so ready an answer. The conditions under which trade here and at home is conducted are so widely divergent, and the nature and cause of the majority of insolvencies so entirely different, that at first sight the mere fact that the Bill is drawn on the same lines as the English Act carries with it a presumption of possible unfitness. A closer examination of its provisions, however, shows that in its leading principle of official control over bankrupt estates it is in a great measure a return to what has long been recognized as one of the best features of the present Indian insolvency law. The signal failure in operation and the gross malpractices perpetrated under the Bombay Act for speedy liquidation—XXVIII of 1865—which was a distinct departure from this principle, is still well within the memory of several members of the Chamber; and there can be no question that efficient control by responsible, qualified officials must be a fundamental principle of insolvency legislation in India. The absence of the separate supervision exercised in England by the Board of Trade need not, in the opinion of the Chamber, interfere with the effectual working of the Act so long as careful provision is made in the rules that only thoroughly competent officials are appointed to responsible posts, and that they are placed under the guidance and direction of the Court.

A very marked difference between the law of insolvency here and in England exists in imprisonment for debt being still maintained in India. In the opinion of the Chamber it would be unadvisable as yet to deprive creditors in this country of that power. There are, no doubt, weighty arguments in favor of following English legislation. Amongst the poorer classes their personal liberty in reality constitutes the security on which they are able to obtain advances; and, were the power of utilizing that security once removed, the ability of contracting debts beyond their means of repayment would be done

away with also, and much unnecessary extravagance in the shape of expenditure on marriage and other festivities— which accounts for a considerable proportion of the insolvencies amongst the lower classes— would thus be avoided. In other words, by removing the power of getting into debt, people would be compelled to live within their means. While admitting this as regards the poorer classes, the general opinion amongst merchants and bankers is decidedly adverse to the abolition of liability to imprisonment for debt from a mercantile point of view. The change would be too radical, and, by altering the basis on which business has been conducted in this country from time immemorial, might seriously interfere with the ordinary course of trade. As to whether or not the Bill in its present form fully contemplates the existence of imprisonment for debt is more a question for skilled lawyers than a body of laymen, and the Chamber therefore would content itself as regards this point by merely expressing the opinion that it cannot be too carefully considered.

So far as Bombay is concerned—and the same probably holds good in the other Presidency-towns— one of the greatest disadvantages which creditors have to contend with is the facilities which fraudulent debtors have for escaping from the jurisdiction of the Court by absconding into Native territory. Amongst a certain class of Native traders—and that by no means the lowest—this is a very common means of evading punishment, and, owing to the ease with which it can be accomplished, it tends greatly to encourage fraudulent bankruptcy. The Chamber quite appreciates the serious difficulties there are in the way of bringing about a remedy, but it would earnestly solicit the attention of Government to this point. Once make it possible for the writ of the Bankruptcy Court to take effect in Native States, and reckless trading amongst Native dealers will have received a death-blow which no other form of legislative enactment could administer.

The Chamber observes that the draft Bill omits the disqualification of a bankrupt to hold certain offices, as provided under Part II of the English Bankruptcy Act of 1883. The advisability of this omission the Chamber is very much inclined to question, as there is no doubt that, especially amongst Natives, the holding of certain appointments carries considerable dignity, and the deprivation of these as the direct result of bankruptcy might have a wholesome deterrent effect. In the opinion of the Chamber the Bill should provide for the disqualification of a bankrupt for holding the following positions where not already settled by existing Acts, namely :—

Member of the Legislative Council.
Justice of the Peace.
Member of the Town Council or Municipal Corporation.
Member of a Port Trust or Harbour Board.
Director of a Joint Stock Company.

The eligibility of bankrupts for these offices after obtaining their discharge might be made dependent on the nature of the bankruptcy as certified by the Court.

Taking each section in order, the Chamber begs to submit the subjoined remarks :—

Section 5 (1) (*d*).—In addition to this clause, the Chamber considers it important for the due protection of creditors that in the case of a firm which has carried on business at a place where a Bankruptcy Court exists, and has partners where there is no such Court, the estate should be wound up at the place where the Bankruptcy Court is, and the partners elsewhere should be liable to have their assets at once taken possession of by the Official Receiver. Further that, if a firm so constituted becomes insolvent, the act of insolvency of any one partner should render all other partners, wherever situated, insolvent also, and liable to have their property attached by the Court.

Section 8.—The Chamber is of opinion that this section should provide that in the case of a debtor with no available assets the Court should not be able to give a complete discharge, but should have power to compel him to proceed with his insolvency. An *interim* order might be granted in the first instance, but revoked unless the debtor proceeded with the insolvency when called upon to do so.

Section 12.—The advertisement giving notice of the receiving order should, the Chamber thinks, be published in at least one of the leading local newspapers in addition to the Government Gazette, and this suggestion should be made applicable in every instance where notice by advertisement is provided for, notably in section 19 (5), section 27 (5), section 30 (3).

Section 15.—As the time fixed for submitting a statement of a debtor's affairs seems very limited, it is suggested that under sub-section (2) (*i*), where an order is made on the petition of the debtor, ten instead of three days should be allowed, and where the order is made on the petition of a creditor (*ii*), the time be increased from seven to twenty days.

Section 16.—The Chamber is of opinion that there is no necessity for making the public examination of a debtor compulsory where a compromise has been agreed upon, and it would therefore ask that the following be added to sub-section (1) :—

" Except that in cases where the majority of creditors in number and three-fourths in value are prepared to accept a compromise, the public examination of the debtor may be dispensed with."

Section 17.—In all cases of compromise or composition the Chamber deems it most important that the creditors should have the fullest possible information before them as to the true state of the debtor's affairs; and it seems desirable, therefore, that the following words should be appended to sub-section (3) :—

" with a full statement of the debtor's affairs."

Section 21, the Chamber recommends, should be entirely omitted from the Bill. It may be that in England, where the books of an insolvent are in English and information as to an estate can be obtained without much difficulty, a committee of creditors may prove of considerable assistance in securing a favorable liquidation ; but the experience of those who have been concerned with bankrupt estates here is of a contrary character. In all probability it might lead to the appointment on committees of creditors favorable to the debtors, as was found to be the case in working Bombay Act XXVIII of 1865, which was admittedly a complete failure as a means of advantageous liquidation.

The omission of this section and the abolition of committees of inspection would necessitate some alterations in the wording of subsequent provisions of the Bill. For instance, the Chamber suggests that section 50 should read—

" The trustee may, with the permission of the Court, and after such notice to creditors as the Court may prescribe, do all or any of the following things ;"

and in sub-sections (3) and (4) of the same section, (2) of section 51, (1) of section 57, and (1) of section 63, the word " Court " should be substituted for " committee " or " committee of inspection."

Section 24.—The desirability of arranging to secure the arrest of an insolvent who has taken refuge in a Native State has already been alluded to, and, if that be practicable, provision would have to be made for it under this section as also under (2) of section 26.

Section 25.—The same provision as for the redirection and delivery of letters should be made for telegrams.

Section 27 (5) allows 14 days' notice only to creditors of the day fixed by the Court for hearing a debtor's application for discharge. This would be insufficient for creditors out of India, and the Chamber would recommend one month's notice being allowed.

Section 27 (6).—The Chamber suggests that a decree passed by the Court against a debtor when making an order of discharge should be in favor of the Official Receiver only, his office being continuous, while a trustee might have to leave the country at times under very short notice.

Section 34 (5).—Considering that the current rate of interest in India is 9 per cent. as compared with 5 per cent. in England, the rate of interest payable out of surplus funds, as provided for in this clause, might fairly be increased from 4 per cent. as proposed to 6 per cent. per annum.

Section 36 (1).—The Chamber is of opinion that the preference extended to a landlord's claim for rent under this section is unduly large. It thinks that no power of distraint should be granted after bankruptcy, and that he should not be entitled to a preferential claim four more than for months' rent, subject, moreover, to assets of that amount belonging to the insolvent's estate being on the premises.

Section 52 (2).—After the words "application of" the Chamber suggests the insertion of the words "the trustee or."

Section 64 (3).—It would be well to have the "prescribed officer" mentioned in this clause defined, as it is important to know in whose hands the very responsible power of regulating the charges may be placed. It is also suggested that "leave of the Court" be substituted for "proof of such taxation having been made," before payment.

Section 67.—Having regard to the constant fluctuations in the value of Government securities, it seems to the Chamber that if it could be so arranged it would be preferable, instead of investing surplus funds in Government paper, to hand them over to the Accountant-General, who, on behalf of Government, should pay 4 per cent interest on the amount. Such interest, moreover, should go to the separate estates, or, in other words, be for the benefit of the creditors who are frequently kept out of their dividends for long periods pending the decision of suits and disputes. The system adopted under the English Act, and sought to be introduced into this Bill, of utilizing the interest obtained on funds held during liquidation towards minimising the fees payable in bankruptcy, has rather a tendency to favor debtors to the disadvantage of creditors.

Section 70.—In addition to rendering it incumbent on a trustee to grant a creditor inspection of the books kept in connection with the liquidation of an estate, it should also be provided that creditors should have free access to the books of the insolvent. It should be further arranged that an experienced and trustworthy staff of Native *mehtas* or accountants should be maintained on the staff of the Court (either attached to the Official Receiver or Trustee), through whom reliable translations and extracts from books kept in any of the Native languages could be obtained. Great difficulty is experienced in obtaining information of this character under the existing law, and a creditor employing an outside *mehta* for the purpose of searching a debtor's accounts always runs the risk of the man being bought over by the other side.

Section 88 (3).—It appears to the Chamber somewhat anomalous that a Judge of the Small Cause Court should not have the same power to commit for contempt as is granted to the Court under section 23, clause (4). The omission of clause (3) is accordingly suggested.

Section 103.—The Chamber would be in favor of raising the limit for small bankruptcies from Rupees 3,000 to Rupees 5,000. In estates within the latter sum it is very unlikely that cases of fraudulent books, &c., will occur requiring the more complicated machinery of the previous portions of the Act; nor does it seem necessary that the examination of the debtor be insisted upon as provided under clause (*c*).

From H. BATTY, ESQ., Under Secretary to Government, Bombay, to the Secretary to the Government of India, Legislative Department, dated 5th February 1886, No. 784.

With reference to your letter, No. 113, dated the 18th ultimo, I am directed to forward, for submission to the Government of India, copy of a letter from the Acting Prothonotary and Registrar of Her Majesty's High Court, Bombay, No. 21, dated the 28th idem, and its accompaniments, regarding the draft Bill to amend and consolidate the Law of Bankruptcy and Insolvency in British India.

From G. H. FARRAN, ESQ., Acting Prothonotary and Registrar, High Court, Bombay, to the Chief Secretary to Government, Bombay, dated 28th January 1886, No. 21.

With reference to your letter, No. 4605, dated the 1st July 1885, I am directed by the Honorable the Chief Justice to forward the accompanying report on the draft Bill to amend and consolidate the Law of Bankruptcy and Insolvency in British India, prepared in accordance with His Lordship's directions, and to state that the Honorable Mr. Justice Bayley, who has been for some years presiding over the Insolvent Court, approves generally of the same.

From G. H. FARRAN, ESQ., Acting Prothonotary and Registrar, High Court, Bombay, and C. A. TURNER, ESQ., Official Assignee, Bombay, to the Honorable the Chief Justice, Bombay.

In accordance with your Lordship's directions, we beg to submit the accompanying remarks on the draft Bill to amend and consolidate the Law of Bankruptcy and Insolvency in British India.

REMARKS.

Protection from Arrest.—The proposed Act, which is principally taken from the Bankruptcy Act of 1883 now in force in England, where imprisonment for debt has been abolished, provides that the receiving order shall have the effect of protecting the debtor from arrest in respect of any debt provable in bankruptcy. It does not contemplate any opposition on the part of creditors at this stage, but deals only with the granting or withholding of a final discharge. In Bombay, where imprisonment for debt is still permitted and no protection is afforded by the vesting order under the present Act, the chief object of the majority of insolvents is to obtain immunity from arrest at first by means of *interim* protection-orders, and afterwards by obtaining their personal discharge under section 47, after which they but rarely trouble themselves about applying for their final discharge; while the principal object of the opposing creditor is to prevent an insolvent from obtaining such immunity, in order that he may be able to secure better terms by making use of his power of arrest. A practical result would be that the large proportion of petitioning debtors, who come to the Court for the purpose solely of obtaining protection from arrest, would have no object in proceeding with their petitions, and would probably neglect to take any further steps after the receiving order was made. To remedy this it is suggested that the Court should have power both (1) to dismiss petitions for want of prosecution, and (2) to cancel so much of the receiving order under section 8 (1) as gives protection from arrest. It would also seem necessary that the Court should have power to direct the discharge from jail of a debtor imprisoned before the making of the receiving order: there does not appear to be any provision to this effect in the proposed Act.

Adjudication of Bankruptcy.—The change made by the proposed Act with respect to the adjudication of bankruptcy is highly advantageous. Under the provisions of the Act in respect to that subject it will be possible to have debtors adjudged insolvent before they have had time to dispose of all their property, and creditors will in all probability make use of those provisions more and more if the Act is found to work well. It is very important that adjudicated insolvents should (1) make the statement required by section 15 and (2) come up for the public examination directed by section 16. Debtors who have been adjudged insolvent almost invariably abscond from Bombay into Native States, and there is no power under the present Act to compel their return. Such a power extending throughout British India is given by section 24 of the proposed Act; but as absconding debtors almost invariably abscond to Native States, it would largely increase the efficacy of the Act if it were found possible to extend that power to Native States also.

Composition with Creditors.—The change made by the proposed Act with respect to composition with creditors is also beneficial. The present Act is silent on the subject, and the result is that documents purporting to be assignments in favor of creditors hastily executed just before the date of the vesting order are often set up with the effect of either entailing troublesome and expensive litigation, or of keeping from the Court all power of investigating the insolvent's affairs, even though a majority of creditors may desire such investigation. Considering, however, that the public examination of debtors will in many cases involve the disclosure of affairs of creditors which they may naturally object to be made public, power might be given to the Court in cases of composition with creditors to dispense with the public examination of debtors when a sufficient majority of creditors desire or consent to it.

Property of Bankrupt.—The words of section 38 (1), which deals with the property of the bankrupt, are not so wide as those of section 7 of the present Act, and it is important especially when dealing with property in the Mufassal or outside British India, where the law is imperfectly understood, that the words of the Act should clearly and distinctly cover the property of the bankrupt, whether within British India or without.

Discharge of Bankrupt.—Under the present Act there are two sorts of discharge that can be granted to an insolvent by the Court—(1) freedom from personal imprisonment for debt, and (2) freedom from liability of after-acquired property. It is one of the greatest faults of the present Act that a separate application has to be made for each, and the Court at the hearing of the matters of an insolvent's petition under section 35, where all the facts regarding his conduct are before it, makes no order as to the latter, but only as to the former sort of discharge. In Bombay the principal object of the debtor in coming to the Court is to obtain his personal discharge, and the object of an opposing creditor is either to force the insolvent to buy off his opposition or to induce the Court to dismiss his petition. The reason is that a creditor in Bombay in opposing an insolvent is invariably working in his own interest and not in that of the general body; and he considers that, if the petition is dismissed, he will succeed in obtaining a greater portion of the insolvent's property than if it were distributed by the Official Assignee. The power of dismissing petitions given by section 47, and used as a penalty for misconduct, encourages this system. The proposed Act will effect a great improvement in this respect, as under it the Court will consider the whole question of the insolvent's course of dealing and conduct, and will either grant him his discharge (conditional or otherwise), or punish him under the Act itself.

Penalties.—The provisions of sections 27, 105, and 107, which deal with penalties and punishments, are much more severe than in the present Act. It may be noted that a bankrupt cannot under them obtain an unconditional discharge more than once, and, if undischarged, he his liable to be punished by imprisonment if he obtains credit to the extent of Rupees 200 without informing his creditor. There is a class of penalties under the English Act which has been omitted from the proposed Act, namely, disqualification of a bankrupt to hold certain offices. It, however, seems desirable that no penalty should be omitted which may have the effect of causing the mercantile community to regard bankruptcy as a disgrace, which in Bombay since the share mania, they have to a great extent ceased to do. And for this reason it would appear advisable to make the disability to hold certain positions which may be regarded as honorable the direct result of bankruptcy.

Decrees against Bankrupt.—Passing a decree in favor of the trustees against the bankrupt is a punishment often enforced in England in cases where no assets are forthcoming in the bankruptcy. The practice in Bombay has been to pass such a decree in every case, and, considering the great facilities bankrupts have in this country for concealing their property from the Court, that practice seems a good one, as affording a ready way of recovering from the bankrupt after his discharge property that he may be shown to be possessed of without having to prove that it was concealed at the time of the discharge. It would probably be found more convenient if such decrees were passed in all cases in favor of the Official Receiver, as a trustee might not be forthcoming some years after the

bankruptcy when required to act. Such decrees should also, if possible, be exempted from the operation of the law of limitation as provided in the present Act, as it would be manifestly impossible, as well as useless, for the Official Receiver to take the necessary steps for keeping all such decrees alive, and equally impossible to foresee in what cases it would be desirable to do so.

Procedure.—The procedure under the proposed Act will largely increase the work of the Court—as essential feature of the Act in the public examination of the bankrupt in every case. During the last three years there have been on an average over forty petitions presented each month, which under the proposed Act would entail an equal number of public examinations, for the taking of which the time at present allotted for sittings in insolvency would be wholly inadequate. The provisions of section 99 of the English Act, or such modification of them as may be considered proper, might with advantage be inserted in this Act, and work of a formal nature, such as taking such examinations in unopposed cases, granting receiving orders and other work of a similar nature, relegated to an officer of the Court. In any case, whether the public examination be taken by the Court or by an officer, the provision in section 16, by which the notes of examination are to be signed by the debtor, might, with advantage, be omitted, as it would involve not only the loss of time occasioned by reading over and interpreting his deposition to a Native witness, but, especially in the case of a debtor subjected to a searching examination, may result in a refusal to sign the notes as taken down or an endeavour to retract previous admissions or statements.

Unclaimed Dividends.—The proposed Act provides (section 132) for the payment of any unclaimed dividends under it to the bankruptcy estates account, but omits the provision contained in the corresponding section of the English Act as to the disposal of the unclaimed dividends under the present Act. These unclaimed dividends in Bombay amount to upwards of eight lakhs, of which between two and three lakhs are in respect of proved claims in estates in which redistribution has been already made under Act XXVII of 1841, and which cannot be further distributed under any Act now in force. The remainder is to a large extent made up of dividends in respect of debts admitted by insolvents in their schedules as due, but which have not been proved, and are for the most part unprovable; and it is doubtful whether these dividends can be distributed under the Act of 1841. Section 7 of Bill No. 3 of 1881, which was intended to remedy this state of circumstances, has never become law, and it therefore seems necessary that some means of dealing with those funds should be provided by the proposed Act. The interest upon the first class of those funds at least might be applied towards the general purposes of the Act; otherwise there may be a difficulty at first in working the proposed Act, unless a very high scale of fees is adopted.

Appointment of Official Receiver.—Under the present Insolvent Act the Official Assignee can only be removed from office in the cases specified in section 18. By the proposed Act the removal of the Official Receiver will depend solely on the pleasure of the Chief Justice. There does not appear to be any reason why the position of the Official Receiver should be less independent than that of the Official Assignee, or his tenure of office less secure.

A few remarks dealing with some of the sections more in detail are annexed.

APPENDIX.

Section 2—*Regarding Application of Section* 48 *to England.*—Section 48 could hardly be made applicable to England, but nevertheless cases may arise in which onerous property in England may become vested in the trustee in India. Is not some provision necessary to provide for disclaimer by the trustee in such cases?

Section 21 (2).—The committee of inspection might very well be dispensed with, or at all events confined to cases in which an order is made under section 20, sub-section (2).

In cases in which the Official Receiver is acting, reference to the Court for necessary powers and authority will be more satisfactory and cause for less delay than to committees of creditors.

See 11 and 12 Vic., c. 21, s. 28.

In that event some such words as the following might be added to section 21 (9):—

"by and with such notice to such creditors as the Court may think fit to direct."

Section 24.—As has been already pointed out, the value of this section would be very greatly increased if it enabled debtors absconding to Native States to be also arrested.

In any case, however, the section would seem to be incomplete, as it does not distinctly provide for the case of a debtor who may have actually absconded from the local jurisdiction of the Court to some other part of British India, but only deals with the case of a debtor who is "about to abscond with a view," &c.

Section 34 (1)—*Municipal Rates.*—Port trust dues, &c., are at present only entitled to dividends.

Sub-section 5—*Interest after Payment of Principal in Full.*—As decrees in India carry interest at 6 per cent., in the same way interest after the receiving order should be allowed in India at 6 per cent. also.

Section 36.—Section 36 of the proposed Act gives a landlord the power to exercise, with certain restrictions, his right of distraint upon the property of the bankrupt for rent due. This right was taken away by the present Act, and the change will considerably hamper the Official Receiver when an estate first comes to his hands. Landlords, on the insolvency of their tenants, often put padlocks on the godowns or premises let to them and claim a lien for rent; and as rent in Bombay is heavy, and the value of the goods so locked up uncertain, such claims, even under the present law, are not easily disposed of. The proposed change is, we think, to be deprecated; but if it is considered that the landlords should have any preferential claim, it would be more convenient to allow a preferential claim for two months' rent (not exceeding the value of the goods on the premises let by them) under section 34, and leave the law otherwise unchanged.

Section 38, *Clause* (2).—The words "wearing-apparel and bedding" are hardly sufficiently wide. In India cooking-pots, &c., are more necessary even than bedding. The words of the Act 11 and 12 Vic., cap. 21, section 7, are "wearing-apparel, bedding, and other such necessaries."

Section 51 (2).—The distribution of a dividend depends almost entirely on the creditors and not on the trustee.

The words "shall be declared and be payable" might be substituted for the words "shall be declared and distributed."

As to the period of four months prescribed by this section for the declaration of the first dividend, see note for section 99.

Section 57 (2)—*Allowance to Bankrupt.*—We think the allowance to a bankrupt should be limited both as to amount and as to duration. The limit we would propose is Rupees 100 per month extending over not more than ten months.

It must be remembered that in all bankruptcies the bankrupt himself has always influence in the liquidation of his estate.

A considerable body of the creditors, either through friendship or relationship, or because they have received, or expect to receive, special preference, are always ready to support the bankrupt.

In large estates there will always be danger of candidates for trusteeship making a bid for the bankrupt's influence by promise of a good allowance if they are appointed.

Some limit of time is necessary, or an insolvent in receipt of a good allowance will be tempted to protract the liquidation of his estate.

Section 61—*Official Receiver's Report.*—Before the discharge of any bankrupt under section 27 of the new proposed Act, the Official Receiver has *in every case* to prepare a report, which has to be taken into consideration by the Court at the hearing of the bankrupt's application under that section. In order to make such reports of any value, the Official Receiver must (in cases of insolvency of traders) have the assistance of experienced Native accountants capable of themselves reading and understanding Native account-books.

Account-books in Bombay are kept, not only in different languages and character, but even on different principles, varying according to the particular trade or business carried on by the bankrupt or to the skill or ignorance of the *mehtas* employed by him.

The accountants would have to be high class men, well paid, and in the regular employ of the office (not engaged for any particular estate), to ensure trustworthy performance of their work.

The examinations of account-books so made would be of the greatest value both to creditors who might wish to oppose and also to the Court itself at the hearing.

This would, however, seem to be a matter to be dealt with by rules under the Act, and not in the Act itself.

Section 65 (3).—We do not consider that this provision can be of any value in India.

Section 67—*Investment of Moneys.*—Under this section investment is made out of the "bankruptcy estates account" generally, and not out of the moneys belonging to any particular estates, and the whole interest so realized is appropriated for the general purposes of the Act [section 67 (3)].

Were it possible to distribute the moneys to creditors as quickly as is contemplated in the Act, there would be no great hardship in the present provision. In Bombay, however, considerable sums have always to be reserved to meet the possible costs of the litigation that invariably ensues on any large insolvency proving unsuccessful, and (as has already been pointed out) claims of creditors cannot be quickly adjusted.

It would be hard on creditors that money so locked up should not be invested for their benefit.

Perhaps the simplest way would be to leave the provisions of the Act as they are, and out of the interest accruing under the provisions of this section (67) to allow interest at 4 per cent. on all sums paid into the "bankruptcy estates account" until dividend is declared.

Section 88.—It appears from paragraph 29 of the draft "Objects and Reasons" that this section has been put in at the request of the Government of Madras. We do not think that the section can be of any value in Bombay while the High Court and the Small Cause Court are so far apart. It would be necessary to have a special Official Receiver and Registrar with proper office establishments, to carry on the insolvency business of two separate Courts.

We believe that in 1880 both the High Court and the Small Cause Court of Bombay were opposed to the introduction of this provision.

Sections 92 (4), 124—*Times.*—All "times" allowed for the act are far too short; and though full power of extension is given by section 92 (4), yet the times mentioned in different sections for each act should, as far as possible, approximate the average time within which such act ought to be done.

There are several reasons why longer times will be required in Bombay than in England:

(1) the Courts sit weekly only;

(2) books of account are always in arrears, especially during the busy season, and take a long time to make up, and only a very limited number of *mehtas* can be employed on them at once;

(3) traders of any importance always have goods on their way to England or elsewhere, the account-sales of which are not received for a considerable time;

(4) no estate of any size can be realized without litigation owing to the invariable attempts made by bankrupts to conceal property or favor particular creditors; and litigation in Bombay is both tedious and expensive.

Section 99—*Petitions of Partners in different Courts.*—Under this section we suppose petitions by partners of firms carrying on business in the different Presidency-towns would be transferred to the Court in which the first petition was filed; otherwise some provision is required on this point. See also section 13.

Section 103 (3).—Small bankruptcies under Part VII, section 103, might, with advantage, be extended to Rupees 6,000.

Where the gross assets of an estate are not more than Rupees 6,000 it would rarely be worth the creditor's while to attend meetings and take any direct interest in the winding up of the estate, nor will the estate itself stand the expenses of proceedings prescribed by the Act and by the first schedule.

Creditors may, of course, in such cases wish to have the bankrupt's affairs more expensively investigated and the bankrupt himself punished; but provision is made for this by clause (*c*) of this section (103).

Section 116 (2).—If the suggestions contained above regarding business to be done before the Registrar be adopted, it might be convenient to provide for the remuneration of that officer also under this section.

Section 120, *Clause* (4).—We doubt if this provision is sufficient in the case of Native States. Would it not be simpler to allow affidavits to be also made before the British Resident or Consul or Political Agent?

Lien on Bankrupt's Books of Account by Solicitors and Others.—There have been several cases lately in Bombay of solicitors claiming a lien on insolvent's books of account and so making it extremely difficult for creditors to get full and free inspection of them. Such claims might, moreover, be set up in collusion with an insolvent.

Section 121 of the English Act of 1861 abolished claims for lien of an insolvent's books of account, and the same provision was made by a rule under the Act of 1869, there being power under that Act to make the rule—See *Yate Lee on Bankruptcy*, page 676.

A similar rule has been made under the present English Act of 1883, but it is of doubtful validity under section 127 (4) of that Act.

It would therefore seem advisable to put the provision into the Act itself.

From F. B. Peacock, Esq., Chief Secretary to Government, Bengal, to the Secretary to the Government of India, Legislative Department, dated 15th February 1886, No. 799-J.

I am directed to acknowledge the receipt of your letter, No. 1041, dated the 17th June 1885, forwarding copies of the Bill to amend the Law of Bankruptcy and Insolvency in British India with Statement of Objects and Reasons, and asking for an expression of the Lieutenant-Governor's opinion and of the opinions of such persons as His Honor might think fit to consult on the provisions of the Bill.

2. In reply, I am desired to submit, for the information of the Government of India, the accompanying replies received from the officers and gentlemen named in the margin and the Secretary to the Calcutta Trades' Association, who were consulted by this Government, and to say that, with the exception of section 88 (1), the Lieutenant-Governor approves generally the provisions of the Bill. This section provides that the High Court may, from time to time, direct that a Judge of the Presidency Small Cause Court shall have all or any of the powers therein mentioned. In this connection I am to ask the attention of the Government of India to the letter from the Chief Judge of the Calcutta Court of Small Causes, and to say that, even with the assistance that this Government is about to ask should be given it, the Court of Small Causes, Calcutta, has more work on its hands than it can satisfactorily get through; and the Lieutenant-Governor is therefore averse to throwing additional burdens on the Judges of that Court.

The Solicitor to the Government of India, No. 1096, dated the 3rd September 1885, and enclosure.
The Chief Judge, Court of Small Causes, Calcutta, No. 68, dated the 2nd October 1885.
The Superintendent and Remembrancer of Legal Affairs, No. 901, dated the 9th November 1885.
Maharaja Sir Jotendro Mohun Tagore, K.C.S.I., dated the 31st August 1885.
Baboo Doorga Churn Law, dated the 7th September 1885.

From R. L. Upton, Esq., Solicitor to the Government of India, to the Officiating Under Secretary to Government, Bengal, dated 3rd September 1885, No. 1096.

Referring to your No. 1336½, J. D., of the 8th ultimo, I have the honor to forward you herewith a copy of the Honorable the Advocate-General's opinion on the subject therein referred to.

Opinion.

There can be no doubt that the present Insolvent Act is antiquated and requires to be replaced by fresh legislation.

The Statement of Objects and Reasons very clearly and fully explains the grounds on which the proposed change in the present Insolvent Laws are rested, and deals in an exhaustive manner with the principles which are to be followed in framing a new Bankruptcy Act. I agree in the main with the Objects and Reasons, and I think it advisable that legislation here should be supported by an Act of Parliament.

The provisions of the Draft Bill are principally taken from the English Bankruptcy Act, 1883, with certain necessary modifications.

The English Bankruptcy Act is the outcome of an extended experience of years, and has, I think, been properly adopted as a model for the proposed legislation I have doubts whether the provisions in the English Statute in relation to composition or scheme arrangement, which have been embodied in the present draft Act, will be found useful or of any practical benefit in this country.

With regard to jurisdiction, I think that up-country traders, who have had large commercial transactions, and whose estate would be more satisfactorily administered in a Bankruptcy Court, should be allowed to petition the Bankruptcy Court of the Presidency in which they have carried on business, and such Court should be vested with powers to adjudicate such persons bankrupt on their own petition if it thinks fit, the powers to adjudicate being discretionary, to be exercised according to the circumstances of the case. The objection to such a procedure would naturally be that it would be a hardship upon creditors living at a distance to follow the proceedings in a Bankruptcy Court; but such a hardship must often occur where a debtor carrying on business in Calcutta is adjudicated by the High Court of Calcutta, and has creditors up-country as well as in the different presidencies.

(Signed) G. C. PAUL,
Advocate-General.

The 29th August 1885.

From G. C. Sconce, Esq., Officiating Chief Judge, Court of Small Causes, Calcutta, to the Chief Secretary to Government, Bengal, dated 2nd October 1885, No. 68.

With reference to letter, No. 2946, dated 9th September 1885, from the Under Secretary to the Government of Bengal, calling my attention to No. 1342, J. D., dated 8th July 1885, I have the

honor, after consultation with my colleagues, to say that we believe that the provisions of the draft Bill to amend and consolidate the law of Bankruptcy and Insolvency in British India are calculated to be of great benefit to the country.

We also approve of section 88, which empowers the High Court, from time to time, to direct that a Judge of the Presidency Small Cause Court shall deal with the matters therein mentioned; but we do not consider it would be beneficial to deprive a Judge of the Small Cause Court of the power to exercise in matters relating to bankruptcy and insolvency such authority as he has in the exercise of his ordinary jurisdiction under section 83 of the Presidency Small Cause Courts Act, 1882, to punish for contempt.

His Honor the Lieutenant-Governor is already aware that the Judges of this Court are unable, in the existing state of the files, to cope with the mass of business that comes before them. Any addition to the ordinary business will necessarily occasion further arrears.

From T. T. ALLEN, Esq., Superintendent and Remembrancer of Legal Affairs, Bengal, to the Chief Secretary to Government, Bengal, dated 9th November 1885, No. 901.

In reply to your office No. 1337, J. D., dated 8th July last, I have the honor to say that the draft Indian Bankruptcy Bill is applicable to the presidency towns, where at present a similar law is administered by the High Court in its original jurisdiction. As I have no knowledge or experience of the working of the existing law, I am unable to form an opinion as to the necessity for, or improvements effected by, this Bill.

2. As to the mufassal, I consider the present Bill utterly and entirely unsuitable; but as there appears to be no intention to make it current there, this is no detraction from its merits.

From MAHARAJA THE HON'BLE SIR JOTENDRO MOHUN TAGORE, K.C.S.I., to the Officiating Under Secretary to Government, Bengal, dated 31st August 1885.

I have the honor to acknowledge the receipt of your No. 1340, J.D., dated the 8th ultimo, forwarding, for the expression of my opinion on it, copy of a draft Bill to amend the Law of Bankruptcy and Insolvency in British India, and in reply to submit the following remarks for the consideration of His Honor the Lieutenant-Governor of Bengal.

2. The primary object of the project is consolidation. The law of bankruptcy and insolvency, as now current in India, is scattered in different Acts, which are in some respects defective, and in others discordant or not convenient; and the Bill under notice proposes to reconcile differences, to supply omissions, to remove defects, and generally so to amend and alter the present law as to make it fully suited for the requirements of the day. In so far the project is worthy of commendation. The opportunity has also been taken to make it accord with the latest English law on the subject, and provision has been made so to transfer cases from Indian to English Courts as to cause no inconvenience.

3. It is not necessary for me, however, to notice all the alterations, particularly as the honorable and learned gentleman who has drafted the Bill has fully and clearly treated the subject in great detail in his Statement of Objects and Reasons. I desire, therefore, to confine myself here to only those points which appear to me to require further consideration.

4. In the Civil Procedure Code Act (XIV of 1882, sections 336 and 344), relief for bankruptcy is made dependent on a preliminary arrest or imprisonment; no debtor can obtain the benefit of the law until he is taken up under an execution warrant. This mode of making relief accessible only through the gates of a prison to honest but unfortunate debtors is highly objectionable, and clause (1) of section 7 of the Bill does well in doing away with it in the case of persons residing or carrying on business within the jurisdiction of the Presidency Courts for at least a year. The limit of time fixed, however, appears to me to be too long. There are many causes which may, and not unoften do, bring on insolvency within a much shorter time, and that without any dishonest or fraudulent motive on the part of a debtor, and in such cases it is not at all desirable to insist upon a preliminary punishment. The law provides ample safeguards against fraud, and the punishment should come when the fraud is laid bare in the course of enquiry, and at the time of granting the discharge, and not precede inquiry. The provision, moreover, appears to me to be totally ineffectual as a salutary measure. A debtor who becomes insolvent in six months' time can easily avoid going to jail by getting up a creditor to petition against him, and the law is at once defeated. This applies likewise to the first part of the section, which insists upon lodgment in prison as a *sine quâ non* in the case of an ordinary debtor. It makes a provision which can always be circumvented, except in the improbable contingency of a debtor being so unfortunate as not to be able to get a creditor to petition against him. Under these circumstances, I am respectfully of opinion that the clause in question should be divested of the conditions attached.

5. Clause (4) of section 26 gives power to the Court to compound with the debtors to an insolvent estate, and this is as it should be, inasmuch as, however, such compositions must, as a matter of course, be effected by the Receiver or the Trustee of the estate, and more frequently by his subordinates. It would be an advantage if provision were made to give an opportunity to the creditors, or the Committee appointed by them, to appear in Court and show cause why particular compositions should not be made in the way proposed. Instances are well known of such compositions in connection with large insolvent estates having been made in a manner injurious to the interests of creditors.

6. Clause (5) of section 26 appears imperfect as it stands. There should be some provision made with reference to any counter-claim that the person concerned may have against the debtor.

7. Among the facts which would disqualify a bankrupt from getting immediate discharge, mention is made of absence of books of account for three years immediately preceding his bankruptcy [clause (*a*) of section 273]. This would suggest the idea that the discharge would be witheld or delayed if the books of account are not forthcoming or should extend only to one or two years. Such cannot, however, be the intention of the law in cases in which insolvency supervenes after one or two years' trading. In regard to merchants and traders, the law should be so worded as to imply a period of not less than three years in the case of persons carrying on business from a long time, and for the whole period in the case of persons who have carried on business for less than three years; as regards persons other than

merchants and traders, it may be a grave hardship to demand regular books of accounts. Such people do not ordinarily keep any account of their income and expenditure; they live upon what thay get and are satisfied. They may, however, be overtaken by a sudden misfortune, such as a decree of a Civil Court calling upon a person of this class to pay heavy damages, for which he might be forced to seek the benefit of the Insolvent Court, and in such a case it would be cruel to call upon him to produce regular books of accounts, and on default subjecting him to punishment. The Court should be left perfectly free to exercise its discretion as to whether the omission is due to unavoidable or accidental circumstances, or to improper motive. The word "shall" in line 6 of the clause, page 16, leaves no room for such discretion.

8. I look upon clause (*g*) of the same section as calculated to operate harshly. There are many merchants and traders now in Calcutta who have been under the necessity through their misfortune, without any fraudulent or dishonest action, of taking the benefit of the Insolvent Act two, three, or more times, and there is no valid reason why men of that class should not readily obtain their discharge under the proposed Bankruptcy Act. The broad line of distinction between honest misfortune and fraud should never be lost sight of.

9. Clause (2) of section 46 appears to contravene to a certain extent the provisions of the current law of the country on the subject of pensions. Section 11 of Act XXIII of 1871 says: "No money due or becoming due on account of any such (political considerations or past services) pension or allowance shall be liable to seizure, attachment or sequestration by process of any Court in British India at the instance of a creditor for any demand against the pensioner, or in satisfaction of a decree or order of any such Court." This provision is repeated in several subsequent Acts, and appears last in section 266 of Act XIV of 1882, and no circumstances have since transpired to suggest a departure from it. Pensions are in theory benevolences, and to render them liable to seizure by a decree of a Court is to convert charity into civil right. They are granted by Government to provide for the support of persons who have rendered good service for extended periods, and are liable to stoppage at any time at the will of the donors, and should not on any account be treated as a fixed asset.

10. When the Bill regarding the amendment of the Courts of Small Causes in presidency towns was under consideration a few years ago, the public feeling was strongly expressed against a section in the Bill which proposed to vest those Courts with insolvency jurisdiction to a limit of Rupees 1,000, and in compliance with the wishes then expressed the section was withdrawn. Section 88 of the Bill now under notice renews the project in a modified form, that is, by delegation of powers by the High Court, but removes the money limit. There are cases in which such delegation would prove useful, but I would respectfully urge that the limit of value should be fixed by law and not exceed Rupees 1,000.

From Babu Doorga Churn Law, to the Officiating Under Secretary to Government, Bengal, dated 7th September 1885.

I have the honor to acknowledge the receipt of your No. 1341 J.-D., dated the 8th July last, forwarding copy of a draft Bill to amend the law of Bankruptcy and Insolvency in British India, and requesting an expression of my opinion on it.

2. In reply, I beg to submit the following remarks on the Bill for the consideration of His Honor the Lieutenant-Governor of Bengal.

3. Time was when a bankrupt or trader who secreted himself, or did certain act with intent to defeat or delay his creditors, was looked upon as a criminal or offender, but that time has long since passed away, and the aim of legislation has of late been to afford every protection to honest but unfortunate debtors. All the insolvency and bankruptcy laws now current have been formed with this object, and the present attempt is to effect a general amendment of the law alike in the interests of general trade and the principles of humanity and justice. The opportunity has also been taken for a consolidation of the law, so as to make it most conveniently workable. The occasion has moreover been utilised to make the Indian Act accord with the latest English law on the subject, and provision has been made so as to transfer cases from India to English Courts as to cause no inconvenience. The necessity for these amendments and improvements, it is stated in the "Draft Statement of Objects and Reasons," has been frequently of late years pressed upon the attention of Government, and in my humble opinion Government does well in taking up the measure.

4. The bulk of the Bill is made up of the law now in force, with such alterations and improvements as the experience of the last four and thirty years during which the Statute 11 and 12 of Victoria, 21, has been in operation in the Presidency Courts has suggested; and as the honorable and learned gentleman who has drafted the Bill has fully and clearly explained the nature and drift of the alterations in his Statement of Objects and Reasons, there is no need for my noticing them. I shall, therefore, confine myself here to only those points which appear to me to be susceptible of further improvement.

5. For expeditious and satisfactory liquidation of an insolvent estate, it is necessary that power should be given to the Court to compound with the debtors to it, and this is done in clause (4), section 26. Inasmuch, however, as such compositions must, as a matter of course, be effected by the Receiver or the Trustee of the estate, and more frequently by his subordinates, it would be an advantage if provision were made to give an opportunity to the creditors, on the committee appointed by them, to appear in Court and show cause why a particular composition should not be made in the way proposed. Instances are well known of such compositions in connection with large insolvent estates having been made in a manner injurious to the interests of creditors.

6. The provision made in clause (5) of section 26 is necessary and proper, but as it stands it appears imperfect. There should be some provision made with reference to any counter-claim that the person concerned may have against the debtor. In all such cases the counter-claim should be fully satisfied before any demand is made. In other words, the demand should be limited to the difference between the claim and the counter-claim.

7. I am respectfully of opinion that clause (*a*) of section 27 (3) is likely to act with hardship. In it mention is made of absence of books of account for three years immediately preceding a bankruptcy as a ground for withholding immediate discharge. This would suggest the idea that the discharge would be withheld or delayed if the books of account forthcoming should extend to one or two years

only. Such cannot, however, be the intention of the law in cases in which insolvency supervenes after one or two years' trading. In regard to merchants and traders, the law should insist on a period of not less than three years in the cases of persons carrying on business from a long time, and for the whole period in the case of those who have carried on business for less than three years. This should, however, not apply to debtors other than merchants or traders. Such people do not keep any account of their income and expenditure: they live upon what they get, and are satisfied. They may, however, be overtaken by a sudden misfortune. A decree of a Civil Court may call upon a person of this class to pay heavy damages for which he may be forced to seek the benefit of the Insolvent Court, and in such a case it would be cruel to call upon him to produce regular books of account, and, on default, subjecting him to punishment. The Court should be left perfectly free to exercise its discretion as to whether the omission is due to unavoidable or accidental circumstances, or to dishonest intention. The word "shall" in line 6 of the clause, p. (16), leaves no room for such discretion.

8. The provision made in clause (*g*) of the same section also appears to me as calculated to operate harshly. There are, I believe, many cases of merchants and traders in the Presidency-towns in which men have been under the necessity, through sheer misfortune, without any vicious or dishonest action, of taking the benefit of the Insolvent Act more than once, and there is no valid reason why men of that class should not readily obtain their discharge under the proposed Bankruptcy Act. The broad line of distinction between honest misfortune and fraud should be very rigidly fixed in all such cases.

9. Clause (1) of section 46 provides for the stoppage for the benefit of creditors of the pay and allowance of persons in the service of Government who may happen to become insolvents, but the next clause appears to contravene to a certain extent the provisions of the current law of the country on the subject of pensions. Section 11 of Act XXIII of 1871 says: "No money due or becoming due on account of any such (political considerations or past services) pension or allowance shall be liable to seizure, attachment, on sequestration by process of any Court in British India at the instance of a creditor for any demand against the pensioner, or in satisfaction of a decree or order of any such Court. This provision has been upheld in several subsequent Acts, and appears last in section 266 of Act XIV of 1882, and no circumstances have since arisen to suggest a departure from it. Pensions are in theory benevolences, and to render them liable to seizure by a decree of a Court is to convert charity into a civil right. They are granted by Government to provide for the support of persons who have become unfit for further work after rendering good service for extended periods—as provisions for old age—and are liable to stoppage at any time at the will of the donors, and should not, on any account, be treated as a fixed asset.

10. Section 88 of the Bill invests the High Courts with the power of delegating their powers for certain purposes to Presidency Small Cause Courts. This is indirectly a revival of the clause in the Bill for the Presidency Court of Small Causes which proposed to invest those Courts with insolvency jurisdiction. The public feeling against the project was then strong, and it was therefore withdrawn. The modified form in which it is now proposed appears to me to be not only unobjectionable, but likely to prove very useful. I would respectfully urge, however, that the money limit of the jurisdistion should be fixed by law, and not left to the discretion of the High Courts. In matters of jurisdiction the law can never be too precise.

From E. HICKIE, ESQ., Secretary, Calcutta Trades Association, to the Secretary to Government, Bengal, dated 14th December 1885.

I have now the honor to place before you, for submission to His Honor the Lieutenant-Governor, the views of the Committee of the Trades Association on the Bill to amend the law of Bankruptcy and Insolvency in British India.

2. It would be impossible, the Committee feel, to overrate the importance of the proposed Act to the trading community throughout India; they have consequently given to its provisions the most careful consideration, and are unanimously of opinion that the measure, as a whole, will afford assistance and protection to both debtor and creditor.

3. In order, however, that the protection to be given by the Act may be adequate and complete, the Committee would beg to suggest that the Government of India might be moved to amend the Bill in so far as it deals with the following important points, which appear to be deserving of further consideration.

> Conditions on which creditor may petition.
>
> 5. (1) A creditor shall not be entitled to present a bankruptcy petition against a debtor unless—
>
> * * * * *
>
> (*d*) the debtor is in prison within the local limits of the jurisdiction of the Court under an order of a Civil Court for non-payment of money, or has within a year before the date of the presentation of the petition ordinarily resided or had a dwelling house or place of business within those limits.

4. In regard to this section, the Committee are of opinion that the jurisdiction clause should be extended to all cases in which the High Court has jurisdiction. For example, a person ordinarily resident in the Mufassal is liable to be used in the High Court in respect of contracts made by him in Calcutta, but a Calcutta firm holding a decree of the High Court against such a person could not, under the Bill as drawn, avail itself of the provisions of the Bankruptcy Act. This seems to the Committee to be a serious anomaly, and one which will materially lessen the usefulness of the Act.

> Priority of debts.
>
> 34. (1) In the distribution of the property of a bankrupt there shall be paid in priority to all other debts—
>
> * * * * *
>
> (*b*) all wages or salary of any clerk or servant in respect of services rendered to the bankrupt during four months before the date of the receiving order, not exceeding five hundred rupees;
>
> * * * * *

5. The Committee are of opinion that the amount to be paid to clerks under this section should be equivalent to three months' salary. To limit the amount to five hundred rupees would be to inflict an undeserved hardship on a large number of employés. Not a few firms employ assistants whose salaries range from Rupees 200 to Rupees 500 a month, and who belong to a class of employés who contribute in no small degree to the proper carrying on and success of a business, and it appears to the Committee that due regard should be given to this fact on a further consideration of this portion of the Bill. They would strongly recommend that not less than three months' salary should be granted.

36. (1) The landlord or other person to whom any rent is due from the bankrupt may at any time, either before or after the commencement of the bankruptcy, exercise his right of distraint (if any) upon the property of the bankrupt for the rent due to him from the bankrupt, with this limitation, that if such distress for rent be levied after the commencement of the bankruptcy, it shall be available only for one year's rent accrued due prior to the date of the order of adjudication, but the landlord or other person to whom the rent may be due from the bankrupt may prove under the bankruptcy for the surplus due for which the distress may not have been available.

Power to landlord to distrain for rent.

38. The property of the bankrupt divisible amongst his creditors, and in this Act referred to as the property of the bankrupt, shall not comprise the following particulars :—

Description of bankrupt's property divisible amongst creditors.

* * * * *

But it shall comprise the following particulars :—

(iii) All moveable property being, at the commencement of the bankruptcy, in the possession, order or disposition of the bankrupt, in his trade or business, by the consent and permission of the true owner, under such circumstances that he is the reputed owner thereof: Provided that things in action, other than debts due or growing due to the bankrupt in the course of his trade or business, shall not be deemed moveable property within the meaning of this section.

46. (1) Where a bankrupt is an officer of the army or navy or of Her Majesty's Indian Marine Service, or an officer or clerk or otherwise employed or engaged in the Civil Service of the Crown, the trustee shall receive for distribution amongst the creditors so much of the bankrupt's pay or salary as the Court, on the application of the trustee, with the consent of the chief officer of the department under which the pay or salary is enjoyed, may direct. Before making any order under this sub-section, the Court shall communicate with the chief officer of the department as to the amount, time and manner of the payment to the trustee, and shall obtain the written consent of the chief officer to the terms of such payment.

Appropriation of portion of pay or salary to creditors.

6. The Committee would beg to suggest that in this section "three months" should be substituted for "one year." The powers of a landlord are sufficiently great, and the existing law provides him with ample facilities for recovering his dues, and for these reasons the Committee submit that, if he should be permitted under the proposed Act to levy distress "for one year's rent due prior to the date of the order of adjudication," he will be receiving an undue preference over all other creditors. The Committee would, therefore, urge that the period for which he may recover under this section should not exceed three months.

7. In reference to this section, the Committee would observe that the Bill as drawn leaves the order and disposition clause still open to be defeated by the ruling in *ex parte Gubboy re Morgan*, which decided that the absence from the country of a partner in an insolvent firm prevented the clause in the Insolvency Act applying, on the highly technical ground that property left by the true owner in the possession of such a firm was not in the *sole* possession of the partner or partners who happened to be resident in this country.

8. In this section the words "with the consent of the chief officer of the department" and "the written consent of the chief officer" deprive it, in the opinion of the Committee, of all its value. The present laws under which Courts are empowered to issue attachments against a debtor's salary are absolute, and do not require the consent of any third party to the appropriation of a moiety of a debtor's pay. The Committee, therefore, think it would be unadvisable that the Indian Bankruptcy Act should differ in this important particular from other Acts.

9. Finally, the Bill makes no provision for the registration of mortgages of moveable property, or bills of sale as they are termed in England ; such a provision would, it is believed, be a very material protection to creditors, and I have accordingly to express the hope of the Committee that it will be conceded by the proposed Act.

The Committee trust that the suggestions contained in this letter will meet with the approval and support of His Honor the Lieutenant-Governor.

From J. O. MILLER, ESQ., Under Secretary to Government, North-Western Provinces and Oudh, to the Secretary to the Government of India, Legislative Department, dated 14th November 1885, No. 998—VII-78-7.

With reference to your letter, No. 1040, dated the 17th June 1885, asking for opinions on the provisions of the Bill to amend the Law of Bankruptcy and Insolvency in British India, I am directed to forward, for the information of His Excellency the Governor-General in Council, a copy of the papers marginally noted on the subject.

Note by Legal Remembrancer to Government, North-Western Provinces and Oudh, dated 8th October 1885.
Letter, No. 2701, dated 3rd November 1885, from the Registrar, High Court of Judicature, North-Western Provinces.

2. As the Act is not to be extended to these Provinces at present, the Lieutenant-Governor and Chief Commissioner thinks it unnecessary to add any remarks on the provisions of the Bill.

Note by Legal Remembrancer to Government, North-Western Provinces and Oudh, dated 8th October 1885.

I have gone through the draft Bill to amend and consolidate the Law of Bankruptcy and Insolvency in British India, together with the draft Statement of Objects and Reasons for the same.

I note that in the draft Statement it is proposed to apply the Bill, if it becomes law, in the first instance only to the presidency towns and to certain commercial centres in Burma.

As regards the North-Western Provinces and Oudh, we shall have ample opportunity of seeing how the law works before we extend it to any commercial centre. My experience as a Judge leads me to think that it will be some time before we shall require any extension, and that when it is extended we shall need stronger Courts and Courts with more leisure than they at present enjoy.

Many of the large commercial firms in these Provinces have houses in the presidency towns, and, as I understand section 4, creditors would be entitled to present bankruptcy petitions against such firms, so that some considerable portion of the class for whom the Act is intended will be covered by the provisions of the Act.

It is worth noticing that increased use is being made by debtors of chapter XX of the Civil Procedure Code. The number of applications for insolvency must vary more or less in concert with fluctuations in the number of applications for execution of decrees. Compared with these, the percentage of applications for insolvency has steadily increased from ·15 per cent. in 1881 to ·35 in

1882, to ·37 in 1883, and ·30 in 1884. I feel convinced that, meagre as the provisions of chapter XX now are, they are still too intricate and expensive for the poor insolvent; but for this we should have a still greater number of applications.

With a few alterations the provisions of chapter XX would meet the present wants of these Provinces, but the present paper is no place to discuss those alterations.

I see little use in discussing *seriatim* the provisions of a Bill which is not to be applied to these Provinces, and I doubt whether I could do so to much purpose. It would need more acquaintance with the customs and wants of Presidency-towns to do so effectually.

From the Registrar, High Court, North-Western Provinces, to the Secretary to Government, North-Western Provinces and Oudh, dated 3rd November 1885, No. 2701.

I am directed to acknowledge the receipt of your letter, No. 674—VII-78-2, dated 26th June 1885, in the Judicial (Civil) Department, forwarding a Bill to amend the Law relating to Bankruptcy and Insolvency in British India, and requesting to be favored with the Court's opinion thereon, and in reply to state as follows.

2. The Hon'ble the Chief Justice has forwarded a minute on the subject direct to the Hon'ble Mr. Ilbert, Legislative Member of Council.

3. The Hon'ble Mr. Justice Straight regrets he has had no leisure to consider the provisions of the Bill or offer any remarks thereon.

4. The Hon'ble Mr. Justice Brodhurst believes it is not intended that any Court in these Provinces shall, for the present at all events, have jurisdiction under the proposed Act, and he therefore refrains from offering any remarks on the proposed legislation.

5. The Hon'ble Mr. Justice Tyrrell also has no remarks to offer on the Bill.

From C. L. TUPPER, Esq., Officiating Secretary to Government, Punjab, to the Secretary to the Government of India, Legislative Department, dated 26th November 1885, No. 974.

With reference to your letter, No. 1042, dated the 17th of June 1885, I am desired by the Lieutenant-Governor to submit, for the information of the Government of India, the opinions of the officers noted on the margin, who have been consulted upon the draft Bill to amend the law of Bankruptcy and Insolvency in British India.

(1) Judges of the Chief Court (Registrar's No. 2582, dated 13th August 1885).
(2) Government Advocate (No. 370 D.A., dated 21st September 1885).
(3) Bunsee Lall Ram Rattan, Rai Bahadur (No. 982, dated 2nd September 1885).
(4) Rai Mela Ram (dated 27th August 1885).
(5) Ramkishan Das, Honorary Magistrate, Delhi (dated 25th September 1885).
(6) Rai Bahadur Kalian Singh, Honorary Magistrate, Amritsar (dated 1st September 1885).
(7) Chota Lall Lahore (dated 16th October 1885).
(8) Lala Gagar Mal, Honorary Magistrate, Amritsar (dated 15th October 1885).
(9) Baggan Lal, Honorary Magistrate, Amritsar (dated 1st September 1885).

From T. G. WALKER, Esq., Registrar, Chief Court, Punjab, to the Officiating Secretary to Government, Punjab, dated 13th August 1885, No. 2582.

In reply to your letter, No. 664-S., dated 13th July 1885, forwarding for the opinion of the Judges a copy of a Draft Bill to amend and consolidate the Law of Bankruptcy and Insolvency in British India, I am desired to say that, as it is proposed to limit the application of the Bill to the Presidency-towns and certain other commercial centres, the Judges have no remarks to offer on the Bill.

From E. P. HENDERSON, Esq., Government Advocate, Punjab, to the Officiating Secretary to Government, Punjab, dated 21st September 1885, No. 370 D.A.

I have the honor to acknowledge your letter, No. 665-S., of 13th July last, forwarding for opinion draft Bill to amend the law of Bankruptcy and Insolvency in British India.

2. I observe that the Act only constitutes by its direct operation four Courts of Bankruptcy, namely, the High Courts of Judicature at Calcutta, Madras, and Bombay and the Court of the Recorder of Rangoon. I also observe that while power is taken to confer upon local Governments authority, with the previous sanction of the Governor-General in Council, to constitute other Courts of Bankruptcy in the territories administered by them, the insolvency sections of the Punjab Laws Act (1872) have not been repealed.

As moreover I am now, and have been for some time past, much pressed with important references, I trust that I may be permitted to refrain from discussing in detail a measure which is not intended to apply to this Province, and which appears to me to be far too advanced and technical for the state of things prevailing here.

From BUNSEE LAL RAM RATTAN, Rai Bahadur, to the Under Secretary to Government, Punjab, dated 2nd September 1885, No. 982.

As directed in your letter, No. 844-S, of 30th July 1885, which you have very kindly sent for any remarks that I may wish to offer, I have the pleasure to state, for your information, that the draft Bill to amend the law of bankruptcy and insolvency in India is worth of maintenance, and that the draft Statement of Objects and Reasons is worth of consideration.

I beg to suggest to afford the following remarks after full examination of the documents you have so kindly sent:—

1st.—The cost of Court for advertising notices, &c., should be defrayed from the estate concerned, but the Court expenses should not exceed some fixed allowances at the rate of percentage which after full consideration the Legislative ought to fix.

2nd.—In India there are lot of persons who, in anticipation of being insolvent give up their estate, cash and property to their sons or brother, and they themselves remain to be insolvent. In this case the Legislative should pronounce some kind of punishment to be awarded to such insolvent.

3rd.—To avoid reoccurrence of insolvent the Legislative should consider and order some kind of distinguished mark to be worn by the bankrupt, in order, if the bankrupt go to another country or city, he may soon be recognized as such a man, as in India there are many men who are dealing in this way, *i.e.*, open a shop in a city, and, while their trade became popular, they abstract lot of money by sending it to their homes or making it away otherwise, and afterwards declare themselves as insolvent. If some distinguished mark be ordered to be worn by the insolvent, there will be a kind of check over them.

4th.—In section 21 I beg that the committee should consist of 8 members, *i e.*, 4 from among the creditors and 4 who do not any way mixed in the case, but know the custom of the city, and the Judge should take their opinion before passing any order on the file.

5th.—In my opinion in section 38 the hereditary rights, such as villages or other landed property, should be included in the estate which must be sold too and assessed in the administration leaving a necessary portion for the insolvent only.

I beg to return the papers received with your letter under reply.

From RAI MELA RAM, to the Secretary to Government, Punjab, dated 27th August 1885.

I have gone through the draft Bill received with your letter, No. 844-S., of the 30th July, and am very glad to come to know that steps have been taken to make up the deficiences which have been observed during the last 35 years. Handing over the matter to the committee of creditors whose interest is chiefly concerned in such proceedings is a great improvement to bring this law to the point of completion, and I hope it will satisfy those who were sulking at the introduction of such a defective measure as that of the insolvency and bankruptcy. As far as my experience is concerned, I would beg to state that Part VII of the Bill, regarding the small bankruptcies, would not work efficiently in a Province like the Punjab until the educated party takes lead in the way of improving the commercial condition of the country. Of course it will be received with great satisfaction in presidency and other towns where the people by means of their extensive education are sufficiently enabled to understand the objects and reasons of the measure in question. I would, however, beg to suggest that for such cases the qualifications of trustees must be prescribed, as they have to manage the estate without the control and supervision of those whose interest they are to guard.

2. In conclusion, I request that the Insolvent Estates Courts must be very strict in awarding punishment to the guilty debtors, as the number of rejected applications clearly shows the bad motive with which they have often been led to defraud their money-lenders.

From RAMKISHAN DAS, Honorary Magistrate, Delhi, to the Under Secretary to Government, Punjab, dated 25th September 1885.

In reply to your No. 844, dated 30th July last, enclosing a draft Bill on the law of bankruptcy for opinion, I have the honor to submit the following remarks.

In my opinion the Bill should, when enacted into law, be made applicable to the Punjab and North-Western Provinces, and the District Courts empowered to exercise authority conferred on "*the Court*" under it The provisions of the Bill, though based on the English law, are not so very abstruse or intricate as to be difficult of comprehension or to be peculiarly suitable to any particular town or city. They are catholic and general in their character, and may advantageously be extended to the Mofussil. Uniformity of principle—certainly so far as the British Indian Empire is concerned—necessitates the existence of one and the same law for identical cases and circumstances wherever they may occur in that empire. The provisions as to the voluntary management by creditors and as to appointment of trustees and the conduct of business by the insolvent under the supervision of trustees or of the committee of inspection are not new or strange. They are acted upon every day in this part of India. Indeed, there is hardly a case in which resort is not had to them as the most efficacious machinery for realising assets for distribution. I would therefore very strongly urge the extension of the Bill to the Mofussil.

SECTION 3 (*b*) and (*c*) may be fused into one clause. There is no meaning in keeping them separate.

SECTION 8 (2).—There is no benefit likely to accrue to the insolvent's estate by allowing a secured creditor to realise or deal with his security. Except in cases of English mortgages (as to which even there is considerable doubt), no mortgagee can exercise the power of sale, except through the medium of a Court, and why he should be allowed to bring a suit to sell the property and thus entail more costs, which are after all to come out of the insolvent's estate, is incomprehensible to me.

SECTION 15 (2).—For 3 days I would substitute 10 days, and for 7 days 1 month. The time mentioned in the section is very little, especially in the case of a creditor who has to enter on very difficult inquiries in order to submit the statement

SECTION 15 (4)—The word "*so*" before stating should be omitted. "So" would mean *for this purpose, i.e*, for inspecting statement. The penalty should be general and absolute, and not confined to any particular circumstance.

SECTION 17 (15) AND SECTION 18 relate to the same matter, and with some slight change of language could easily go into one section or clause.

SECTION 25.—This is a very harsh measure and has been strongly condemned recently by Mr. Justice Norris. If it is considered advisable to keep it, then there can be no meaning in the limitation of 3 months, which should be expunged.

SECTION 28 (2).—Would *deposits* come under this or not?

SECTION 31.—To this section add "*Barred debts, obligations without consideration—Voluntary bonds* shall not be provable."

SECTION 36 should be omitted and its provisions added to section 34, which is their proper place.

SECTION 38.—Add executory contracts which the assignee or receiver may perform.

SECTION 46.—"Or engaged in the Civil service." Omit the word "Civil."

SECTION 48 (5).—Add "Provided that if the party does not agree and feels aggrieved, he may institute a suit for declaration as to quantum of damages which he will be allowed to prove as a debt."

SECTION 48 (6).—"And on hearing such person" modify into "on hearing the trustee or such other person."

SECTION 49.—Add "*(f) Sue debtors.*" This power should be conferred on the trustee irrespective of the following section.

SECTION 64.—The word "solicitor" will have to be changed into "legal practitioner" or "pleader."

Adverting to the Statement of Objects and Reasons, it would of course be necessary to obtain the sanction of the British Parliament to ratify the measure. It is of no importance whether the sanction is antecedent or subsequent, but I consider Draft I to be the preferable of the two.

From RAI BAHADUR KALLIAN SINGH, Honorary Magistrate, Amritsar, to the Under Secretary to Government, Punjab, dated 1st September 1885.

With reference to your letter dated 30th July 1885, I have the honor to submit my few remarks as to the Draft Bill to amend the Law of Bankruptcy and Insolvency in certain parts of British India, and they are as follows.

2. In section 3 it is necessary that the British India may be defined, that it may be more clear whether the foreign States comes within the definition. Although the General Clauses Act I of 1868 defines the British India, but still remains doubtful as to its limits, supposing for instance *Biluchistan*, &c.

3. In the same section clause (*e*) is somewhat harder, that by issuing the process of sale in execution of decree cannot be said that the debtor has committed the act of bankruptcy.

4. In section 5, clause (*d*), paragraph 2, where it is said within a year before the date of presentation of the petition ordinary reside, &c.

The above clause in the section is not clear to fix the period gives rise to a doubt.

5. In the section 6, clause I, it should be added that the copy of petition must be furnished to the opposite party, that the opposite party may come proper and unnecessary delay may not occur.

6. In the section 6, clause 5, that the words to take security for payment of debt is to put the hindrance in the way, but to ask security for the costs of the proceedings is not so.

7. In section 7, clause I, where it is said unless he is in prison, &c., should be added if he is left on security under section 336 of Civil Procedure Code, Act XIV of 1882, as there is generally the case with judgment-debtors in execution of decrees of civil court.

8. Section 17, paragraph 10, provides that the order made on the application may be executed as if it were a decree. It ought to be for those persons only who wish to get the dividend from the estate of bankrupt and not for others who do not wish to be benefited by the provisions of the Act.

9. Section 27 is silent. Clause (*c*) should be added that who contracted debt *recklessly* or *carelessly*.

10. Section 28, clause I, should fix any period in which debt may be liquidated, say 12 years is a reasonable time. After that he must be declared free from such debt, otherwise it would be once a *bankrupt* always a *bankrupt*.

From CHOTA LAL, House Proprietor and Contractor, to the Under Secretary to Government, Punjab, dated 16th October 1885.

I beg to acknowledge receipt of your letter, dated Simla, the 30th August, under cover of No. 844, enclosing a copy of a draft Bill to amend the law of Bankruptcy and Insolvency in certain parts of British India with Draft Statement of Objects and and Reasons for my humble remarks on the same.

I have gone through the whole of the draft, and, so far as I can see, I agree with it, except in two or three places, for which I beg to offer the following remarks.

In section 7, No. 3, the debtor's petition ought to be withdrawn without the leave of the Court, except in cases the Court thinks it fit as otherwise.

In section 11, the manager for the debtor's estate ought to be appointed by the Court, as well as the receiver, and the debtor also be consulted.

In section 6, No. 6, when persons owing the debtor acknowledge themselves as debtors to the debtor, the Court ought to give decree against them in favor of the receiver for the debtor.

In section 23, in cases where debtor is personally required to point out persons owing him, the expenses in so doing by the debtor ought to be given him.

Also there is required a section by which a debtor may settle with his creditors privately or by appointing arbitrators.

Hoping you approve of the above.

From LALA GAGAR MAL, Honorary Magistrate, Amritsar, to the Under Secretary to Government, Punjab, dated 15th October 1885.

I beg to acknowledge the receipt of your favor, No. 540, dated 8th instant, as well as a copy of draft Bill to amend the law of Bankruptcy and Insolvency for my opinion. In reply to that, I beg to return herewith, under a separate cover, the said draft with my notes thereupon. Some delay occurred in forwarding the draft, as I had to consider it thoroughly. Please excuse delay.

Within a year.—This seems to be a very long time. For it is just possible that a person may contract large debts within a year, and he himself be unwilling to go to the Insolvency Court and the creditor may not be able to take any steps. Therefore in my opinion 3 months or 6 months at the most should be the limit.

Section 5, *Clause* (*d*).—The debtor is in prison within the local limits of the jurisdiction of the Court under an order of a Civil Court for non-payment of money, or has within *a year* before the date of the presentation of the petition ordinarily resided or had a dwelling-house or place of business within those limits.

* Rather vague. It should be *during office hours*, or some definite time or day should be fixed.

Section 15, *Clause* (4).—Any person stating himself in writing to be a creditor of the bankrupt may personally or by agent inspect this statement at all *reasonable times*,* and take any copy thereof or extract therefrom * * * * *

Signed must be defined, and made to include sealing and marking.

† *Vide* note to section 15, clause (4).

Section 16, *Clause* (8).—Such notes of the examination as the Court thinks proper shall be taken down in writing, and shall be read over to and *signed* by the debtor, and may thereafter be used in evidence against him; they shall also be open to the inspection of any creditor at all *reasonable times*.†

‡ Should be *and*. It is very easy to put the seal of Court on papers without the Judge knowing it. Seals are always in the hands of peons and others of the same class.

Section 17, *Clause* (7).—If the Court approves the composition or scheme, the approval may be testified by the seal of the Court being attached to the instrument containing the terms of the composition or scheme, *or* ‡ by the terms being embodied in an order of the Court.

§ Should be six months: three months is too little a time.

Section 42, *Clause* (1).—Every conveyance or transfer of property, or charge thereon made, every payment made, every obligation incurred and every judicial proceeding taken or suffered by any person unable to pay his debts as they become due from his own money in favor of any creditor, or any person in trust for any creditor, with a view of giving such creditor a preference over the other creditors shall, if the person making, taking, paying or suffering the same is adjudged bankrupt on a bankruptcy petition presented within three § months after the date of making, taking, paying or suffering the same, be deemed fraudulent and void as against the trustee in the bankruptcy.

Avoidance of preference in certain cases.

PART V.

TRUSTEES.

Remuneration of Trustee.

The remuneration of the trustees should be fixed by the Court itself in every instance. It will be very improper to give this power to the creditors. It is sure to be abused.

Section 63, *Clause* (1).—Where the creditors appoint any person to be trustee of a debtor's estate, his remuneration (if any) shall be fixed by an ordinary resolution of the creditors, or, if the creditors so resolve, by the committee of inspection, and shall be in the nature of a commission or percentage, of which one part shall be payable on the amount realized after deducting any sums paid to secured creditors out of the proceeds of their securities, and the other part on the amount distributed in dividend.

Remuneration of trustee.

It will be quite unnecessary to obtain the Governor-General's previous sanction on a matter like this. The words in *italics* should be omitted.

Section 83, *Clause* (*c*).—The local limits of the jurisdiction of a court appointed by a local Government shall be such as may, from time to time, be fixed, *with the previous sanction of the Governor-General in Council*, by that local Government within the territories administered by it.

The appealable orders should be *specified*. At present the law (which is the same as this) is very unsatisfactory. Some orders are appealable and some are not. Further, why should an appeal lie to the Chief Court direct? This is a *hardship*. It will be convenient to give this power to the Divisional Courts in this Province and other corresponding Courts in other Provinces.

There should be a final appeal to the Chief Court or High Court, as sometimes intricate questions arise in such cases.

Section 91, *Clause* (*c*).—An appeal shall lie from the *order* of a Court appointed by a local Government under section 82 of the High Court of the province.

PART VII.

SMALL BANKRUPTCIES.

Section 103.—When a petition is presented by or against a debtor, if the Court is satisfied by affidavit or otherwise, or the official receiver reports to the Court, that the property of the debtor is not likely to exceed in value *three thousand rupees*, the Court may make an order that the debtor's estate be administered in a summary manner * * * * *

Summary administration in small cases.

Small Bankruptcies.—This should not be with regard to the *amount* of the debtor's property. It should be the reverse, *i.e.*, with reference to the amount of *debts due*, and the *amount* to make a bankruptcy *small* should be Rupees 1,500 only, and not more; otherwise some dishonest people may succeed in arranging that their property may not exceed Rupees 3,000.

Section 105.—Any person against whom a receiving order has been made under this Act shall, in each of the cases following, be punished with *imprisonment* which may extend to two years or *with fine* or with both; * * * *

Punishment of fradulent debtors.

Imprisonment.—Simple or what?
Fine.—What amount?

Notices.

Section 125.—All notices and other documents for the service of which no special mode is directed may be sent by prepaid post letter to the last known address of the person to be served therewith.

Service of notices.

Insert *registered* between the words "prepaid" and "part."

Section 133 (1).—In this Act, unless the context otherwise requires,—

Interpretation.

"Province" means the territories under the administration of a local Government:

"High Court of the province" means the highest Civil Court of appeal for the province:

"The Court" means the Court having jurisdiction in bankruptcy under this Act:

"Affidavit" includes declarations under any legislative enactment, affirmations and attestations on honor:

"Available act of bankruptcy" means any act of bankruptcy available for a bankruptcy petition at the date of the presentation of the petition on which the receiving order is made:

These interpretation clauses should be placed in the beginning.

24. If within *half* an hour from the time appointed for the meeting a quorum of creditors is not present or represented, the meeting shall be adjourned to the same day in the following week at the same time and place, or to such other day as the chairman may appoint, not being less than seven or more than twenty-one days.

Should be *one hour.*

From BAGGAN LAL, Honorary Magistrate, Amritsar, to the Under Secretary to Government, Punjab, dated 1st September 1885.

With reference to your letter dated 30th July 1885, I have to submit my few remarks as to the draft Bill to amend the Law of Bankruptcy and Insolvency in certain parts of British India, and they are as follows.

2. In section 3 it is necessary that the British India may be defined, that it may be more clear whether the foreign States come within the definition. Although the General Clauses Act I of 1868 defines the British India, but still remains doubtful as to its limits, supposing for instance *Biluchistan*, &c.

3. In the same section, clause (*e*) is somewhat harder, that by issuing the process of sale in execution of decree cannot be said that the debtor has committed the act of bankruptcy.

4. In section 5, clause (*d*), paragraph 2, where it is said within a year before the date of presentation of the petition ordinary reside, &c.; the clause in the section is not clear to fix the period gives rise to a doubt.

5. In the section 6, clause I, it should be added that the copy of petition must be furnished to the opposite party that the opposite party may come proper and unnecessary delay may not occur.

6. In the section 6, clause 5, that the words to take security for payment of debts is to put the hindrance in the way, but to ask security for the costs of the proceedings is not so.

7. In the section 7, clause I, where it is said unless he is in prison, &c., should be added if he is left on security under section 336 of Civil Procedure Code, Act XIV of 1882, as there is generally the case with judgment-debtors in execution of decree of civil court.

8. Section 17, paragraph 10, provides that the order made on the application may be executed as if it were a decree.

It ought to be for those persons only who wish to get the dividend from the estate of bankrupt, and not for others who do not like to be benefited by the provisions of the Act.

9. Section 27 is silent. Clause (*c*) should be added that who contracted debt ***recklessly*** or ***carelessly***.

10. Section 28, clause I, should fix any period in which debt may be liquidated, say 12 years is a reasonable term. After that he must be declared free from that said debt, otherwise it would be once a bankrupt always a bankrupt.

From the Officiating Secretary to Chief Commissioner, Central Provinces, to the Secretary to the Government of India, Legislative Department, dated 24th October 1885, No. 4134—202.

I am directed to acknowledge your No. 1043, dated 17th June last, forwarding for opinion a draft Bill to amend the law of Bankruptcy and Insolvency in British India.

2. The Bill will affect only the Presidency-town, the four chief towns in British Burma and the few large commercial centres to which it may hereafter be extended. There are no large commercial centres in the Central Provinces at present, and the likelihood of the extension of the Bill to any town in these provinces in the future is remote. Under these circumstances the Chief Commissioner does not think it necessary that he should make any observations on it.

3. The Bill was sent for opinion to two selected officers—Mr. J. W. Neill, Officiating Judicial Commissioner, and Mr. Venning, Commissioner of Nagpur. Neither of these officers has offered any criticisms on it.

From E. S. SYMES, ESQ., Officiating Secretary to Chief Commissioner, British Burma, to Secretary to the Government of India, Legislative Department, dated 15th December 1885, No. 352—26-L.

I am directed to acknowledge the receipt of your letter, No. 1044, dated 17th June last, regarding a draft Bill to amend the law relating to Bankruptcy and Insolvency.

2. I am now to submit copies of the letters cited in the margin, which contain expressions of the opinion of the Recorder of Rangoon, of the Judge of Moulmein, and of the Rangoon Chamber of Commerce on the provisions of the Bill. The opinion of the learned Judicial Commissioner is still awaited. It will be submitted in due course. The delay in replying to your reference has been occasioned by the Chief Commissioner's desire to be in possession of the views of the Chamber of Commerce and, if possible, of the Judicial Commissioner, before taking the matter into consideration.

From Judge of Moulmein, No. 129—2, dated 24th August 1885.
From Recorder of Rangoon, No. 164—51, dated 20th August 1885.
From Secretary, Rangoon Chamber of Commerce, dated 5th December 1885.

3. The Chief Commissioner agrees that for the present, as regards this province, the new Act should apply only to the four principal seaport towns. By Act XIV of 1885 power has been conferred on the Chief Commissioner to transfer the jurisdiction in insolvency matters of the Recorder of Rangoon to the chief Civil Courts of Moulmein, Akyab, and Bassein in respect of those towns. Subject to the assent of the Governor-General in Council, a similar power is conferred on the Chief Commissioner by sections 82 and 83 of the Bill. It would seem necessary to take care that the provisions of the Bill should not conflict with those of the Act above cited. But the Chief Commissioner does not support the suggestion made by the Judge of Moulmein that the power at present exercised by the local Government of conferring insolvency jurisdiction on and withdrawing it from the Moulmein court should be annulled by the constitution of that Court as an Insolvency Court under section 82 of the Bill.

4. The Chief Commissioner supports the proposal made by Mr. MacEwen that power should be taken in section 88 to confer on the Court of Small Causes in Rangoon the limited jurisdiction in bankruptcy matters which it is proposed to enable the High Courts to confer on the Small Cause Courts in the Presidency-towns.

5. Section 91 of the Bill provides for appeals from orders in bankruptcy matters. Before the Bill is introduced into the Legislative Council it is probable that the jurisdiction of the superior Courts in this province will have been satisfactorily settled. But should the question of the constitution of a Chief Court in Burma be still unsettled when the Bankruptcy Bill is finally drafted, it will be necessary to specify in clause (*c*) of section 91 the particular High Court to which appeals under that clause would lie. Such appeals might appropriately lie to the Court of the Recorder of Rangoon.

6. The Chief Commissioner solicits special attention to the opinion of the learned Recorder of Rangoon, particularly to the views stated in paragraphs 5, 6 and 7 of his letter, which seem to be worthy of consideration. It seems very important that the application of the less cumbrous procedure (section 103 of the Bill) should be extended so as to embrace cases where the assets are apparently, not more than Rupees 10,000. Mr. MacEwen's figures, namely, 91 insolvencies, Rupees 28,74,000 of debts, and only Rupees 43,000 (less than 2 per cent. of the debts) recovered by the Official Assignee in all, do not warrant sanguine hope that bankruptcy proceedings will greatly benefit the mass of creditors. There is perhaps, therefore, the more reason for attempting, when the law is under revision, to free innocent debtors from some part of the pains and penalties now accruing to themselves and their families from non-fraudulent debt.

The recommendation made in paragraph 8 of Mr. MacEwen's letter regarding the abolition of dual jurisdiction in the same court also commends itself to the Chief Commissioner.

7. Mr. MacEwen's report contains a recommendation for the abolition of imprisonment for non-fraudulent debt. The learned Judge is clearly in favor of such abolition, though he mentions that the retention of this penalty has been practically decided upon. The Chief Commissioner does not know how this may be. He ventured previously (letter No. 679—4-L, dated the 21st July 1882, to Home Department) to show cause for the total abolition of imprisonment for non-fraudulent debt. He still holds to the same opinion. He recently referred to the Judicial Commissioner certain cases of imprisonment for civil debt in the hope that the learned Judge would advise or comment upon the matter. If anything of interest or value results from this recent reference and discussion, the papers will be laid before the Government of India.

From D. G. MACLEOD, Esq., Judge of the Town of Moulmein, to the Junior Secretary to the Chief Commissioner, British Burma, dated the 24th August 1885, No. 129—2.

In compliance with the request made in your letter, No. 100—26L (Judicial Department, Legislative), dated the 6th ultimo, I have the honor to offer the following opinion on the Indian Bankruptcy Bill.

In dealing with the first question raised in the 11th paragraph of the Statement of Objects and Reasons, namely, as to the extent to which the proposed law should be applied locally in British India, it is necessary to bear in mind the main object of a bankruptcy law, which is to relieve honest debtors from the punishment of imprisonment for debt. The securing of the debtor's property for the benefit of his creditors is really subsidiary to the relief to the debtor, and the question therefore should not be entirely judged with reference to the existing machinery for working the proposed law for the benefit of creditors.

The question, however, as discussed in the Statement of Objects and Reasons of the Bill, is not, as it was in the correspondence in 1882, whether it is advisable to abolish imprisonment for debt, but whether the privileges of the proposed law should be extended to debtors in India generally, or only to a favored few who have the good fortune to be inhabitants of the small local areas to be brought under the operation of that law.

Allowing even that there are differences between the circumstances of indebtedness arising in commercial seaports and those occurring in the Mufassal, it seems to me desirable to have only one insolvency law for the whole of India, and this, as stated in paragraph 11 of Statement of Objects and Reasons of this Bill, might be effected by inserting in the proposed measure a chapter providing the modifications and simplifications necessary to suit the requirements of Mufassal Courts. Chapter XX of the Civil Procedure Code has been, if not long enough in force to pave the way for a measure such as the present, sufficiently tried to show the necessity for its very considerable amendment, if not for its abolition, and I consider it unadvisable to retain it in preference to a simplified but complete insolvency law.

If it should in the end be decided not to frame an Act applicable to the whole of British India, it should, I think, at least be left optional with persons resident beyond the local limits of the courts with insolvency jurisdiction to avail themselves of the benefit of the insolvency law. Cases are conceivable in which it may be a less hardship to debtors and creditors to get insolvency affairs administered by a court having jurisdiction under the proposed measure than by the ordinary local court with limited powers under chapter XX, Civil Procedure Code, such for instance as the case of a debtor who resides just outside the limits of an Insolvency Court or has considerable property within such limits.

Coming to that part of the Statement of Objects and Reasons which refers to the difference between the Bill and the law on which it is modelled, I would remark, in regard to the question of jurisdiction to entertain applications for a declaration of insolvency, that by reason of the difficulty in the case of natives of proving the fact of *residence* at all, it seems desirable to amend the provision by including *the personal carrying on of business or working for gain* as grounds of jurisdiction. This would afford creditors larger and easier means of proving the point of jurisdiction, which would probably be frequently raised by reason of the limitations imposed on it by the draft Bill.

As regards the provisions of the Bill, it is not easy to foresee how details, for the most part adapted to English modes of business, would work in practice in India. My remarks, therefore, will be directed and confined to what appear to me to be omissions in the Bill rather than to criticising the propriety or efficiency of the proposed procedure.

Section 8 (1).—If it is intended, as I think it must be, to give the court power to release the debtor from jail if he should be there when the receiving order is made, provision for that should be made here by empowering the court to order the release of the debtor wheresoever he may be confined. The power to release from jail, even if the jail be without the jurisdiction of the court, is necessary in view of the different grounds which confer insolvency jurisdiction.

(2).—Under Act XXVIII of 1866, the power of sale is only conferred in respect of mortgages to which English law is applicable, and unless this provision is limited to the exercise of such power, mortgagees would be entitled to realize their securities by suit to the detriment of the interests of the unsecured creditors, which the expenses of the suit would occasion. This remark should be read in connection with another, which I shall presently make in reference to the rights of mortgagees (*infra* 2nd schedule 12 (*c*).

Section 19 (4).—Provision similar to that previously suggested should be made here also for the release of the debtor from jail if not released at the time of making the receiving order.

Section 26 (1).—The right to summon others than the debtor should be limited, as in the Civil Procedure Code, with reference to the means of communication between their place of residence and the court-house.

(2) I would add after the word "sum" the words "for his travelling expenses and subsistence."

Section 45.—It is, I think, desirable that the power of the courts to seize the property of a bankrupt should extend to any part of Her Majesty's dominions, situable provision being made for the procuration of the necessary authority from the court having jurisdiction where the property is situate.

Sections 82 *and* 83.—As the Bill was drafted before the amendment of the Burma Courts Act, 1875, by the Act of 1885, whereby the insolvent jurisdiction before exercised by the Recorder of Rangoon in Moulmein has been vested in the Judge of Moulmein, these sections should be altered so as to give the Court at Moulmein jurisdiction in bankruptcy by the direct operation of the proposed Act.

Part VII.—The usefulness of this chapter would be extended by providing that the Official Receiver shall not be required to pay the court-fees prescribed for proceedings in court for the recovery of debts, but that the amount due for such fees shall be a first charge on any decree that may be obtained by him, or that it shall be payable out of the general funds of the estate. The difficulty also of investigating small claims of insolvents must, I should think, act prohibitively a gainst the institution of suits for the recovery of such claims. If such suits were allowed to be brought on the statements made by insolvents in their schedules, greater responsibility would attach to such statements, and the burden of the suit would be rightly thrown on the person who, but for the intervention of the Receiver, would be the party to sue. The Official Receiver of course would be bound to satisfy himself as to the legality of the claim as disclosed by the facts stated in the schedule, but every other facility should be given

him to realize the property of the debtor in the way I have indicated. No. 25 of the rules of the Calcutta High Court, framed under the present Insolvency Act, provides that the Official Assignee may sue without payment of *office fees* if he have no funds, but this does not include stamp-duty, to which my remarks are intended to apply.

Second Schedule 12 (*c*).—To meet the case of mortgagees whose securities exceed in value the amount of the debt, corresponding rights should, I think, be to the trustee to force a sale of mortgaged property at a reserved price equal to the amount due on the mortgage, as the trustee may not always be in a position to redeem.

The trustee should also have the right to sell the equity of redemption in mortgaged property if the mortgagee does not seek to foreclose his mortgage within some specified time.

From R. S. T. MACEWEN, ESQ., Officiating Recorder of Rangoon, to the Secretary to the Chief Commissioner, British Burma, dated the 20th August 1885, No. 164—51.

I have the honor to acknowledge receipt of your letter, No. 100—26-L, dated 6th July last, forwarding copy of a draft Bill to amend the law of insolvency and bankruptcy in India, and asking for an expression of opinion on the provisions of the Bill.

2 The Bill itself is a large measure and deals with a somewhat difficult and complex subject. It is drawn on the lines of the recent English Bankruptcy Statute, and would require much more time than I have at present at my disposal to examine its provisions in detail and consider their probable effect in the event of its becoming law But I may say that a new Act dealing with insolvency and bankruptcy in India has long been felt to be a necessity, and I think the general feeling has been, both amongst lawyers and commercial men, that any measure of the kind which is undertaken should be as clear, simple, and effective as possible. Whether this Bill fully answers these requirements it is difficult to say without a much more minute examination of its provisions than I am now able to give to it

3. Part I (sections 3—29) of the Bill deals with the procedure to be followed from an act of bankruptcy to discharge. and in cases of large bankruptcies, where the bankrupts are traders and the property for distribution is considerable, the provisions are no doubt to the advantage of creditors. but they are more cumbrous than under the present system. and will lead to greater expense in the administration of bankrupt estates. They will add considerably to the work of the Courts and of the Official Assignee (called Official Receiver in the Bill). and appear to contemplate (in large cases at least) the appointment of a trustee, other than the Official Receiver, in each bankruptcy. The appointment of such a trustee, except in large and intricate cases. seems unnecessary and undesirable. If generally adopted, the effect would be to take all bankruptcies likely to render reasonable remuneration to the trustee out of the hands of the Official Receiver and Trustee and to leave him with only such cases as would yield little or no returns; and as he is not a salaried officer, but dependent wholly upon commission for his own labor and the cost of his establishment. it would be difficult, if not impossible. to secure the services of competent persons as Official Receivers If the commission to come to the Official Receiver is likely to be inadequate. the Government will have to pay a high salary to the Official Receiver and the cost of his establishment For the duties imposed by the Bill on the Official Receiver are considerable and important. and must be performed by a professional lawyer At present the Official Assignee and his establishment cost the Government nothing. No doubt section 20 leaves it in the discretion of the Court to appoint an independent trustee, but the appointment might be applied for by the creditors: the Official Receiver would probably object. At all events there would be a conflict of interests, and it might be difficult to refuse an application by the body or a majority of the creditors. Such applications would never be made in non-paying bankruptcies, and the practical effect might be to leave these and no others in the hands of the Official Receiver. It seems to be considered that there would be difficulty in finding non-official persons qualified and willing to act in such cases. I do not think this is so much to be apprehended, as the competition there would be for paying trusteeships. There are always a considerable number of persons ready to offer for any business that may be expected to pay, and sub-section (2) of section 64 contemplates the appointment of solicitors. It appears to me, therefore. that unless some restrictions are placed upon the appointment of non-official trustees. there is likely to be a good deal of competition for the business, and if appointments were freely made. it would be with the result just indicated. On the whole, I think the business is likely to be better performed in the hands of a responsible professional Official Receiver. and in addition to the discretion imposed upon the Court in the matter, I think no appointment of a non-official trustee should be made except upon a resolution of three-fourths in number and value of the creditors, and that section 20, sub-section (2), should be altered to this effect.

4. The Bill (section 63) provides for the remuneration of non-official trustees, but it does not appear how the Official Receiver is to be paid. Of course if it is intended that he shall be a salaried officer and receive no commissions. then these observations will be inapplicable. But if he is to be on the footing of the present Official Assignee. they appear deserving of consideration and if he is to be a salaried officer, it may be well to inquire from what source his salary and establishment are to be met. The only court-fee chargeable in insolvency cases is the ordinary petition fee of 8 annas, and the fees for serving notices go to the messenger and not to the credit of Government.

5 The provisions of Part I are. it seems to me, unnecessarily complex for the large number of small bankruptcies which occupy so much of the time of the Courts at present. It is true Part VII provides a summary procedure for some, but not for all of these cases. It is only in cases where the property to be administered does not exceed Rupees 3.000 that this part applies I annex a statement showing the number of insolvencies in this Court during the past three years. with the scheduled liabilities, assets, and actual recoveries. In 1882 there were 20 insolvencies, aggregating Rupees 4.5[illegible] of liabilities, and scheduled assets amounting to Rupees 2,12,526 while the total recoveries amounted to Rupees 2[illegible],487, and of this sum Rupees 20,163 was secured, the sum which the Official Assignee recovered for distribution amongst creditors being only Rupees 3,324

In 1883, out of 22 insolvencies with total liabilities of Rupees 14,17,824 and scheduled assets of Rupees 6,32,792, Rupees [illegible]2,8[illegible]3 was all that was recovered. Of this sum, Rupees 60,080 was secured, and the balance. Rupees 22,743, the Official Assignee called in.

In 1884 the total liabilities in 49 insolvencies was Rupees 10,03,035. The assets as per schedule amounted to Rupees 7,82,933, the recoveries to Rupees 56,446, of which Rupees 39,782 was secured and the Official Assignee recovered Rupees 16 664.

It is not quite clear what "property of the debtor" in section 103 is intended to cover. If it means scheduled assets, then chapter VII would apply to about one-half of the business in this Court. Of the 91 insolvencies shown in the statement it would apply to 47. Having regard, however, to the results in the remaining 44 cases, it appears to me that the limit might very well be raised to Rupees 5,000, and I think it might with safety and advantage be raised to Rupees 10,000. In three only out of the 91 cases has property of the value of Rupees 10,000 and upwards been administered, and in seven cases has property between Rupees 5,000 and Rupees 10,000 been recovered. In the remaining 81 cases the property actually administered was less than Rupees 5,000. In 53 cases absolutely nothing was recovered. The provisions of section 14 relating to meetings of creditors would be inapplicable to the whole of these 81 cases.

In 9 out of 10 of these cases the insolvents only come into Court for the purpose of obtaining a protection order. They are either in jail in execution of a Civil Court decree or are threatened with arrest; they have little or no property—in many cases absolutely none. They are nearly all petty traders or impecunious clerks and other persons; the number of their creditors and the individual debts are small; there is seldom much, if any, opposition, and the whole business in these cases is of a simple and rudimentary character. To apply the provisions and machinery of this Bill, to any great extent, to these cases would, in my opinion, be a mistake. The cost, trouble, and delay would far exceed the benefit to be derived. The estates would not bear the cost, which would therefore fall upon the Government.

6. I have very little doubt, although I have not the means of testing my opinion by returns, that in the presidency towns the results will be found to be much the same as here. I think that, if there was no imprisonment for debt, there would be very little insolvency business in India; at all events it would be confined to *bonâ fide* trading bankruptcies. It seems to me that, no matter how stringent a bankruptcy law may be made, it will be taken advantage of so long as imprisonment for debt continues, and the Courts will be resorted to by a class of debtors who ought not to be able to get rid of their debts by means of an Act of this kind.

The true remedy is abolition of imprisonment for debt. It would curtail credit, and be immensely to the advantage of the public and the administration of justice. It would practically abolish small bankruptcies, save much legislation, the time of the Courts, and the expenditure of public money. I understand the question has lately been considered, and it has been decided to retain imprisonment for debt. I think, however, it is well worthy of further consideration in connection with the subject of insolvency and this Bill.

7. Section 103 (*b*) provides that the committee of inspection may be dispensed with in small bankruptcies, and (*c*) allows for other modifications by rules. But this is an inconvenient arrangement, and the power to make rules which absolutely annul the direct provisions of an Act is often questioned. I think where modifications are considered necessary they ought to be made in the Act itself in this part. I am of opinion that all the proivsions relating to meetings of creditors should be dispensed with in small bankruptcies, and that this modification should precede or follow clause (*b*).

8. I am also of opinion that in Courts where the Bankruptcy Act is in operation, chapter XX of the Civil Procedure Code should not apply. The double jurisdiction and procedure lead to confusion, doubts, and uncertainty; persons will not know which procedure to come under, and objections and difficulties will be raised. As it is, chapter XX has been very little used in the Courts now exercising insolvent jurisdiction. There is not a single instance of it in this Court, and until the High Court of Calcutta lately held that it had concurrent jurisdiction under the Civil Procedure Code, the power was doubted. At all events it had not been freely exercised. I am of opinion, therefore, that one of two courses ought to be followed with regard to this part of the subject:

(1) Additional provisions ought to be added to chapter XX to provide more fully for small bankruptcies, and they should be omitted from this Act altogether; or

(2) Part VII ought to deal with them entirely and be the only law in the Courts to which the Act would apply, and chapter XX of the Code should be restricted to Courts in which the Act did not apply.

I think the second is the preferable course, and that their proper place is in this Act; but the procedure should, as nearly as possible, be that of the Code.

9. This Court has not at present the machinery necessary to carry out the provisions of the Bill, and even if a Chief Court should be constituted for British Burma, it will require some addition to its establishment to work the Act properly if all bankruptcies, where the property likely to be realized exceeds Rupees 3,000, were to be made subject to the full provisions of the Act. The principal Civil Courts at Moulmein and Akyab have lately been invested with insolvency jurisdiction, and certainly they have not, and are not likely to obtain, the establishments necessary for the purpose. The jurisdiction might no doubt revert to the Recorder or be vested in a Chief Court, but I think it would be a very great hardship to persons resident in these places to compel them to come to Rangoon in all cases of small bankruptcies. The principal Civil Courts in these places are quite competent to deal with small insolvencies, and with a simple procedure they would not require extra establishments. I think, therefore, that this is a matter of considerable importance so far as the seaport towns of this province are concerned.

10 Section 88 confers certain powers on the Judges of the Presidency Small Cause Courts. I see no objection to this provision. It will relieve the High Courts of a great deal of purely formal work and of a number of petty *unopposed* bankruptcies, and I presume the rules contemplated by sub-section (1) would fix a *pecuniary* limit beyond which these Courts could not receive or hear bankruptcy petitions. In the draft Bill to constitute a Chief Court for British Burma power has been taken to extend the Presidency Small Cause Courts Act to Rangoon. Similar power might be taken to extend, at any time, the provisions of section 88 to the Small Cause Court of Rangoon, although I could not at present recommend that the powers given by the Bill should be exercised by the Rangoon Small Cause Court. But if that Court is reconstituted under the Presidency Acts, and the necessary establishments are allowed, there is no reason why it should not exercise the same powers as the Presidency Courts.

11. I entirely approve of the penal sections of the Bill. I think they are most necessary and will meet most of the cases which arise in practice.

Statement showing Scheduled Liabilities and Assets and Recoveries by the Official Assignee during the year 1882.

Number of Insolvencies.	Liabilities in Rupees.	Assets as per Schedule.				Actual Recoveries.				Remarks.
		Debt due to the Estate in Rupees.	Value of Property unsecured in Rupees.	Value of Property secured in Rupees.	Total in Rupees.	From Debtors in Rupees.	Property unsecured in Rupees.	Property secured in Rupees.	Total in Rupees.	
1	..	..	..	..	..	..	..	..	..	Registry of bankruptcy in Scotland.
2	9,305	399	..	..	399	..	920	..	920	The insolvent compromised with his creditors out of Court at four annas in the rupee.
3	13,310	13,527	..	..	13,527	146	..	..	146	
4	5,579	..	..	..	..	..	..	..	..	
5	24,167	1,096	..	8,600	9,696	114	..	1,760	1,874	
6	2,840	2,300	..	..	2,300	..	..	..	..	
7	..	..	..	..	..	..	673	..	673	No schedule filed; insolvent settled with creditors out of Court and paid in Rs. 12,888, to be divided amongst creditors at four annas in the rupee.
8	11,097	..	..	..	..	..	..	8,050	8,050	
9	..	..	..	..	..	..	..	..	..	No schedule filed.
10	21,054	..	..	..	..	..	..	..	..	
11	2,35,847	..	478	1,24,500	1,24,978	..	475	..	475	Rupees 1,217 was also realized from rents of houses. This insolvent compromised with his creditors out of Court for eight annas in the rupee.
12	Cannot be ascertained as case is transferred to Akyab.					46	..	..	46	
13	2,989	..	..	..	..	..	..	..	..	
14	61,353	4,537	1,700	..	6,237	65	658	5,571	6,294	
15	5,971	3,543	80	750	4,373	25	..	1,553	1,578	
16	13,600	10,566	..	..	10,566	..	..	..	..	
17	9,227	1,450	..	4,876	6,326	59	..	3,229	3,288	
18	29,569	569	..	30,000	30,569	..	118	..	118	
19	5,438	..	..	..	..	..	..	..	..	
20	3,055	1,755	..	1,800	3,555	..	25	..	25	
	4,54,401	39,742	2,258	1,70,526	2,12,526	455	2,869	20,163	23,487	

Statement showing Scheduled Liabilities and Assets and Recoveries by the Official Assignee during the year 1883.

Number of Insolvencies.	Liabilities in Rupees.	Assets as per Schedule.				Actual Recoveries.				Remarks.
		Debt due to the Estate in Rupees.	Value of Property unsecured in Rupees.	Value of Property secured in Rupees.	Total in Rupees.	From Debtors in Rupees.	Property unsecured in Rupees.	Property secured in Rupees.	Total in Rupees.	
1	716	..	..	..	..	..	..	..	..	
2	1,04,978	..	..	..	..	..	..	..	..	
3	..	..	..	..	..	..	..	..	..	No schedule filed.
4	61,859	784	7,381	..	8,165	..	5,256	..	5,256	
5	..	..	..	..	..	..	..	..	..	This was for final discharge.
6	6,802	3,349	..	..	3,349	..	..	.	..	
7	5,300	..	..	3,000	3,000	..	..	..	..	
8	6,055	3,196	..	..	3,196	..	..	..	..	
9	13,600	10,566	..	..	10,566	..	..	..	..	
10	2,905	..	233	..	233	..	33	..	33	
11	..	..	..	..	..	..	..	..	..	This was for final discharge.
12	58,263	7,292	..	675	7,967	..	..	..	..	
13	4,786	..	..	..	..	..	..	..	..	
14	2,806	575	..	..	575	..	..	..	..	
15	1,563	..	..	..	..	..	..	..	..	
16	8,309	2,098	..	..	2,098	..	..	422	422	
17	4,733	403	..	150	553	..	..	..	..	
18	8,17,881	41.000	..	3,08,119	3,49,119	..	539	..	539	
19	5,593	4,085	..	..	4,085	..	..	..	..	
20	8,702	..	..	..	..	..	..	8,325	8,325	
21	8,00,467	23,362	5,420	2,09,550	2,38,332	2,194	14,609	51,333	68,136	
22	2,506	1,554	..	..	1,554	112	..	..	112	
	14,17,824	98,264	13,034	5,21,494	6,32,792	2,306	20,437	60,080	82,823	

Statement showing Scheduled Liabilities and Assets and Recoveries by the Official Assignee during the year 1884.

Number of Insolvencies.	Liabilities in Rupees.	Assets as per Schedule.				Actual Recoveries.				Remarks.
		Debt due to the Estate in Rupees.	Value of Property unsecured in Rupees.	Value of Property secured in Rupees.	Total in Rupees.	From Debtors in Rupees.	Property unsecured in Rupees.	Property secured in Rupees.	Total in Rupees.	
1	2,295	..	..	..	..	..	..	..	..	
2	4,718	284	..	..	284	..	..	..	..	
3	3,807	169	..	..	169	..	..	..	..	
4	5,642	788	..	..	788	..	..	..	..	
5	..	..	..	..	..	..	..	..	..	This case is for final discharge.
6	3,365	..	127	..	127	..	43	..	43	
7	2,644	..	..	..	..	..	..	..	..	
8	2,559	396	..	..	396	..	..	..	..	
9	2,588	179	..	..	179	..	..	..	..	
10	2,635	..	300	..	300	..	108	..	108	
11	9,080	..	..	..	..	..	..	..	..	
12	..	..	..	..	..	..	..	..	..	No schedule filed.
13	2,050	2,624	..	..	2,624	..	..	..	..	
14	7,157	7,755	150	..	7,905	13	661	..	674	
15	28,660	..	..	..	..	..	525	..	525	
16	..	..	..	..	..	..	..	..	..	No [redacted]filed.
17	55,209	..	..	..	..	..	5,157	17,800	22,957	
18	9,879	3,046	995	..	4,041	..	628	..	628	
19	7,947	8,685	112	..	8,797	..	..	..	..	
20	8,266	785	183	..	968	..	420	..	420	
21	13,810	3,620	9,260	..	12,880	1,749	3,839	..	5,588	
22	20,693	2,957	..	7,300	10,257	..	..	5,932	5,932	
23	73,763	71,962	1,318	..	73,280	..	81	..	81	The insolvents in these cases compromised with their creditors out of Court at eight annas in the rupee.
24	57,047	67,389	2,573	..	69,962	..	1,313	..	1,313	
25	1,66,436	41,426	4,274	2,10,000	2,55,700	..	..	..	..	
26	85,336	50,057	3,688	..	53,745	..	..	..	..	
27	1,84,000	15,000	1,986	1,40,000	1,56,986	..	..	..	..	
28	..	..	..	..	..	..	..	..	..	This case is for final discharge.
29	11,095	..	..	..	..	..	629	..	629	
30	7,733	2,999	..	..	2,999	..	..	..	..	
31	10,950	5,309	141	6,776	12,226	..	516	1,500	2,016	
32	6,510	3,361	418	250	4,029	..	221	..	221	
33	9,409	..	20	..	20	..	..	..	..	
34	27,921	520	..	..	520	..	..	..	..	
35	8,175	260	7,207	13,000	20,467	..	..	..	..	
36	32,393	8,906	772	15,500	25,178	254	299	13,200	13,753	
37	..	..	..	..	..	..	..	..	..	No schedule filed.
38	Cannot be ascertained; case transferred to Moulmein.						74	..	74	
39	10,519	4,230	..	..	4,230	..	..	..	..	
40	Cannot be ascertained; case transferred to Moulmein.						..	..	..	
41	3,913	..	..	..	..	..	..	..	..	
42	3,163	..	..	..	..	..	..	..	..	
43	6,460	..	..	2,000	2,000	..	..	525	525	
44	14,108	10,022	..	..	10,022	..	..	..	..	
45	..	..	..	..	..	..	..	..	..	This case is for final discharge.
46	6,491	5,747	186	..	5,933	..	..	..	..	
47	51,903	24,421	..	11,500	35,921	..	..	825	825	
48	Cannot be ascertained; case transferred to Moulmein.						134	..	134	
49	32,706	..	..	..	..	..	..	.	..	
	10,03,035	3,42,897	33,710	4,06,326	7,82,933	2,016	14,648	39,782	56,446	

From J. Stuart, Esq., Secretary, Rangoon Chamber of Commerce, to the Secretary to the Chief Commissioner, British Burma, dated the 5th December 1885.

I have the honor to acknowledge receipt of your No. 101—26-L, dated the 6th July 1885, asking the opinion of this Chamber on the draft Bill to amend the law of Bankruptcy and Insolvency in British India.

In reply, I am directed to inform you that, as this was a matter involving legal knowledge for a complete understanding of the proposed alterations, the members of the Chamber did not feel themselves qualified to express an opinion. They, therefore, referred the matter to their legal adviser, and I am directed to forward to you his remarks on the proposed amendments.

I have further to apologise for the long delay in submitting an opinion on this matter, a delay which was occasioned by the references which Mr. Gillbanks, the Chamber's adviser, had to make as to the course of legislation in England on the same subject.

Note by Mr. J. C. Gillbanks, Barrister-at-Law, Rangoon, dated the 5th December 1885.

From the Statement of Objects and Reasons attached to the proposed draft Bill to amend the law of bankruptcy, it would appear that in 1870 a proposal of Sir James Stephen's to introduce virtually the English Bankruptcy Act of 1869 was by general opinion negatived as being too complicated for the mofussil and because the principle of voluntary management by creditors was considered unsuited to India. We think that for the same reasons the present proposed Bill is unsuited for the mofussil in Burma. A proposal in 1881 to amend the existing insolvency law was rejected on the ground that the law required recasting rather than amendment. We fully agree with this opinion, and we believe that nothing short of recasting the law would be satisfactory. The present law does not seem to us to be cumbrous, though it certainly is defective and out of date.

The proposed Bill adopts the English Bankruptcy Act of 1883; thus we pass at once from legislation in 1848 (our present Insolvent Act is dated 9th June 1848) to an Act of 1883, a gap of 35 years in legislation We consider that it is eminently desirable to assimilate the law in force in India in insolvency to that in force in England and thus to afford our Courts the advantage of English decisions.

In the face of the opinions elicited by previous proposals, we are not prepared to recommend at present that the proposed Bill should extend beyond the limits of Rangoon, Moulmein, Akyab and Bassien as far as Burma is concerned, but we think it desirable that a proviso should be inserted giving power to the local Government to extend the Act to other places in this province when it shall be deemed desirable or necessary. Further, we consider it advisable that the jurisdiction in bankruptcy shall be vested in the Court of the Recorder of Rangoon (or such Court as may be constituted in its place), except as to Moulmein, where there is already a Judge, in whose Court the jurisdiction might be vested with a right of appeal. Provisions on this point must, however, await the passing of the new Burma Courts Act

Some of the most important provisions of the Bill are those which apply to a composition in satisfaction of the debts due from the bankrupt, or for a scheme of arrangement of his affairs. These provisions remove some of the gravest defects of the existing Indian insolvency law, and they show the enormous gap in our legislative enactments, for the principle of deeds of arrangement, by which the property of an insolvent trader was made available for the common benefit of his creditors without his being adjudicated a bankrupt, was introduced in England as far back as 1825. Now, without any preparatory legislation, it is proposed at once to progress from our legislation of 1848 (which was then more backward than English legislation) to the latest English enactment. We must admit that we are legally advised that it appears somewhat doubtful whether, as the proposed Bill is shorn of whatever advantages were expected from the control of the Board of Trade, it is desirable to follow so closely the English Act of 1883.

It may be broadly stated that the chief defects of the English Bankruptcy Act of 1869 were in the provisions for liquidation of the debtor's affairs by arrangement and composition. These defects, it has been alleged, arose mostly from the improper use of proxies and the supineness of creditors, which led to the adoption of inadequate compositions through the influence of the debtors' friends and from the want of control over trustees in bankruptcy in case of liquidation by arrangement, the trustees being exempted from the control of the Court.

We presume that the principle of liquidation by arrangement under the voluntary management of creditors is no longer (as in 1870) considered unsuitable to India. From our experience in Rangoon and Burma we do not think the principle unsuited for this province. We may add that many instances of a desire to carry out such arrangements have come within our experience. Sometimes they have been frustrated because there was no method of making them compulsory, and no control could be exercised by the Insolvent Court. A similar want has been felt when a petition has been withdrawn upon arrangement with creditors.

In so far as a provisional order is only made for the protection of the bankrupt's estate when necessary in the first instance, and the creditors are to have a voice in deciding whether the debtor shall be adjudicated a bankrupt or his affairs be liquidated by composition or arrangement, we approve of the principle of the proposed Bill. If it appears that the approval of the Court, which is necessary, was obtained by fraud, or if it appears that in consequence of legal difficulties, or for any sufficient cause, the composition or scheme cannot proceed without injustice or undue delay to the creditors or the debtor, the composition or scheme may be annulled without prejudice to anything done under it This is a departure which we approve thoroughly; but at the same time we feel some doubt as to whether the proposed Bill is adapted in details to Indian circumstances. It is extremely stringent in many of its provisions, and we think complicated. We should prefer an Act embodying the main principles and features (with the exception of the important changes just noticed, which would be engrafted) of the English Bankruptcy Act of 1869, which was not found to work badly, and could have been amended without much difficulty, rather than a close copy of an enactment, which has not been in force for two years, and of the working of which doubts have already been expressed.

We are hardly prepared at present to recommend the abolition of imprisonment for debt or the introduction of more of the provisions of the Debtors Act, 1869, than the proposed Bill contains.

The duties to be discharged under the English Act by the Board of Trade can, we conceive, only be undertaken by the Courts through properly-appointed officers The appointment of such an officer is much needed in Burma.

We can see no object in preserving any distinction between traders and non-traders.

The limitation of the jurisdiction of the Court and the departure from the corresponding provisions of the English Act are adapted to this province, and we think that domicile should be rejected as a ground of jurisdiction.

With regard to bankruptcy being a disqualification for certain officers, we consider that a provision for the removal of the disqualification on a bankruptcy being annulled might be provided for.

In sections 39 and 40 of the proposed Bill the provisions of section 295 of the Civil Procedure Code as to the time at which an attaching creditor's title becomes complete as against rival decree-holders will be that at which it becomes complete as against the trustee in bankruptcy. This seems to be a sufficient provision, and one which it is desirable to insert, for, although it is in consonance with a decision in the Court of the Recorder of Rangoon, there are decisions which conflict with that law.

At present it would not be desirable to overburden the Small Cause Court by jurisdiction in bankruptcy in petty cases transferred. But a provision for the delegation of such powers might be inserted, to be exercised when desirable, as it appears to have worked well in Madras.

The following are instances of the stringency of the proposed Bill:—

Section 3 (1) (*e*).— "If execution issued against him has been levied by sale of his property in any civil proceeding in British India."

If this is intended to include a foreclosure of a mortgage or order of sale in a suit on a mortgage, it is, we consider, too stringent; such a provision as that contained in the Bankruptcy Act, 1869, would be sufficient.

"That execution issued against the debtor on any legal process for the purpose of obtaining payment of not less than Rupees 500 has been levied by seizure and sale of his goods."

Section 15 (2).—The time for filing a statement of, and in relation to, his affairs by the debtor is extremely short; it is true that the Court may, for special reasons, extend it. By the present Act a debtor is allowed such time as the Court may deem reasonable.

Section 27, relating to the discharge of the bankrupt, especially 3 (*a*), which requires him to keep such accounts as are usual and proper in the business carried on by him and as sufficiently disclose his business transactions and financial position for three years preceding his bankruptcy. For the present the analogous provisions of section 48 of the Bankruptcy Act of 1869 would suffice for Burma, which are shortly as follows:—(1) assent of creditors to closing of bankruptcy by special resolution; (2) that he has paid 8 annas in the rupee, unless prevented by trustees' conduct or circumstances, for which the bankrupt is not justly responsible, and that they desire his discharge, unless he has made default in giving up property required to be given up by the Act, or that he is being prosecuted under the Debtors Act, 1869. This might be coupled with the provisions of the Bankruptcy Act, 1869, as to the status of an undischarged bankrupt (section 54).

Section 28 is stringent enough as to those debtors who are likely to make settlements on their wives, but it does not touch the case of immoveable property which is bought by a debtor and conveyed to his wife or child. Such transactions are unfortunately not uncommon, and some provisions might be inserted as to them. Partially provided for in section 41.

Section 34, restricted to Rupees 500. Under the present Act, no restriction as to amount. The rate of interest, 4 per cent., is very low; the usual Court rate allowed is 6 per cent., 9 per cent., being an average rate of interest.

Section 38.—Property not divisible among creditors, only Rupees 200. At present Rupees 300. In the present state of exchange this is much below the value allowed by the English Act, 1883, nearly £20 (111) of this section is less stringent than section 23 of the present Insolvent Act on the words "in his trade or business" are inserted. Having regard to the abolition of the distinction between traders and non-traders, it would seem hardly desirable to insert these words, but rather to continue the former provisions of the reputed ownership clause.

Considering the heavy stamp duties exacted in India, and that certain conveyances, letters-of-attorney, &c., are by section 75 of the present Insolvent Act exempt from stamp duty, we hope that a section similar thereto, or to section 144 of the Bankruptcy Act, 1883, may be inserted in the new Act.

The provision that a creditor may convey his dissent to a composition or scheme by a letter in a prescribed form attested by a witness, section 17 (2) does not appear adapted to this country; a more formal attestation is necessary.

In section 59 it will be necessary to insert such provisions as would include a senior Judge of a Court not being a High Court; but this will depend on the new Burma Courts Act as far as this province is concerned.

We consider that it is unnecessary at present to introduce the most stringent provisions of the English Bankruptcy Act of 1883, as they are, we think, not adapted to the circumstances of this province. And for the present. and until the English Act of 1883 has been longer in operation, and its advantages practically demonstrated, we would suggest that the main principles of the English Bankruptcy Act of 1869 should be adopted with the requisite amendments, already mentioned, and with the adoption of the principle that the creditors are to have a voice in deciding whether the debtor shall be adjudicated a bankrupt or his affairs shall be liquidated by composition or arrangement. We hold that less complication and greater simplicity is necessary both to adapt the Act to Indian circumstances and to render it possible for our Courts and their officers to work an Act which will be such an enormous stride in legislation. Finally, we are glad that there has been a return to the older and more usual nomenclature, and that the terms "bankrupt" and "bankruptcy" will replace "insolvent" and "insolvency."

From E. S. SYMES, ESQ., Officiating Secretary to Chief Commissioner, British Burma, to the Secretary to the Government of India, Legislative Department, dated 15th January 1886, No. 269—3-L.

With reference to paragraph 2 of my letter, No. 352—26-L., dated the 15th ultimo, I am directed to submit a copy of a note by the Judicial Commissioner on the Bill to amend the law relating to bankruptcy and insolvency.

Note by Judicial Commissioner, British Burma.

I have compared the Bill with the English Statute, 46 and 47 Vic., cap. 52. With very few alterations, the Bill reproduces the Statute. To criticize the Bill is in effect to discuss the Statute, which became law in England after very full consideration, and which is the outcome of the experience of some twenty years of the working of the Statutes which it displaces. That Statute came into force just two years ago. I have no experience of its working, and I can find very few cases bearing upon it.

It is desirable that the bankruptcy law of the Presidency-towns should as closely resemble that in force in England as local conditions will allow. I approve of the proposal to restrict the operation of the Bill to selected areas in which business is usually conducted on Western usages. As far as my

own experience goes. the greater part of the provisions of the Bill are unsuited to the small bankruptcies which usually come before the Courts of the interior, and those Courts have no agency for working the Bill.

From E. STACK, ESQ., Officiating Secretary to Chief Commissioner, Assam, to the Secretary to the Government of India, Legislative Department, dated 7th June 1885, No. 1047.

In reply to your letter. No. 1045, dated the 17th June 1885, I am directed to say that the Chief Commissioner thinks it unnecessary to offer any remarks on the Bill to amend and consolidate the law of bankruptcy and insolvency, as the proposed Act is not likely to be wanted in this province.

From A. MARTINDALE, ESQ., Secretary to Chief Commissioner, Coorg, to the Secretary to the Government of India, Legislative Department, dated 3rd July 1885, No. 610—70.

I am directed to acknowledge the receipt of your letter, No. 1046, dated the 17th of June 1885, forwarding, for an expression of the Chief Commissioner's opinion, a draft Bill to amend the Law relating to bankruptcy and insolvency in British India, with the draft Statement of Objects and Reasons.

2. In reply, I am to say that, so far as the Officiating Chief Commissioner is able to judge, the Bill seems suited to the circumstances of the places to which it is proposed to apply it in the event of its becoming law.

From LIEUTENANT-COLONEL SIR E. R. C. BRADFORD, Chief Commissioner, Ajmer-Merwara, to the Secretary to the Government of India, Legislative Department, dated 29th July 1885, No. 807.

I have the honor to acknowledge the receipt of your letter, No. 1047, dated the 17th of May 1885, forwarding copies of the papers noted on the margin, and in reply to state that I have no observations to offer on the provisions of the draft Bill.

Draft Bill to amend the Law of Bankruptcy and Insolvency in British India, with draft Statement of Objects and Reasons.

From J. R. FITZGERALD, ESQ., Secretary for Berar to Resident, Hyderabad, to the Secretary to the Government of India, Legislative Department, dated 7th December 1885, No. 570G.

I am directed to acknowledge the receipt of your letter, No. 1048, dated the 17th June, forwarding, for the opinion of the Resident at Hyderabad, a draft Bill to amend the Law of Bankruptcy and Insolvency in British India.

2. In reply, I am to inform you that, as the operation of the Bill is, by paragraph 11 of the Statement of Objects and Reasons, expressly and closely limited to certain seaport towns and commercial centres, of which none exist in the Hyderabad Assigned Districts, Mr. Cordery has no observations to offer in the matter.

From R. BELCHAMBERS, ESQ., Registrar, High Court, Calcutta, to the Secretary to the Government of India, Legislative Department, dated 13th February 1886, No. 107.

I send herewith copy of a letter from the Official Assignee and the original note received therewith.

From J. C. MACGREGOR, ESQ., Official Assignee, Calcutta, to Registrar, High Court, Calcutta, dated 13th February 1886, No. 76.

I have the honor to enclose herewith a note on the Draft Bill to amend and consolidate the Law of Bankruptcy and Insolvency in British India.

NOTE.

The draft Bankruptcy Bill is, in my opinion, calculated to effect a great improvement on the existing law, but I think that it follows the lines of the English Statute too closely, and requires certain alterations and modifications to adapt it to the requirements of this country. In the following note I have attempted to indicate section by section the amendments which seem to me to be most necessary or desirable.

Section 3 (1) (*d*).—I would add the words "or closes his place of business." A considerable number of the persons who pass through the Insolvent Court are Marwarees, who reside in Native States and carry on business in the Presidency towns by their gumastas. Some such words as I have suggested would seem to be required to meet their cases.

I think the following clause, or one to the same effect, might be added with advantage:—"or suffers himself to be arrested or taken in execution for a debt not due, or submits collusively or fraudulently to an adverse decree, or procures himself, or his property, moveable or immoveable, to be attached or taken in execution."

Section 3 (1) (*e*) *and* (*g*).—These clauses are very sweeping; I think they should be modified.

Section 7.—I think the question is worthy of consideration whether up-country debtors, Native or European, should not be allowed to seek relief in the Bankruptcy Courts. The provisions of chapter XX of the Civil Procedure Code apply only to judgment-debtors; they are very defective in many respects, and residents in the Mufassal have practically no really effective insolvency law.

Section 9 (2).—The power given to the Bankruptcy Court to stay suits, executions and other proceedings against the debtor in any Court should prove highly useful. When a debtor having property in the Mufassal files a petition of insolvency, his up-country creditors at once proceed to sue him in the local Courts and to attach his property, and, as the staying of such proceedings is, under the present law, a matter of some difficulty, the trouble, cost, and delay of winding up his estate are greatly increased.

Section 11.—The Official Receiver should be empowered to appoint a special manager, with or without an application by the creditors, whenever he considers such functionary necessary. He should also be empowered to appoint the debtor to be special manager if he considers such appointment expedient and without having imposed upon him the necessity of first procuring the sanction of the Court. It should further be provided that, in the event of a private trustee not being appointed, the special manager should be continued so long as the Official Receiver deems his services necessary.

The Official Receiver, who makes the appointment, might also be allowed to settle what security should be given by the special manager, and what remuneration, within certain limits prescribed by rule, he should be allowed. For reasons of economy, as well as of expedition, it is desirable to dispense, as far as may be, with frequent applications to the Court.

Section 14.—The provisions as to meetings of creditors do not seem to me to be suited for India. I believe that, in nine cases out of ten, creditors will not take the trouble to attend, or, at any rate, that only two or three of them will do so. In my opinion it would be well to omit all the provisions and rules as to meetings, or the proceeding by meetings might be made the exception instead of the rule, power being given to the Court to direct that, in any particular bankruptcy, meetings should be held. When no such direction is given, the holding of meetings should not be compulsory, but should be left to the discretion of the Official Receiver or Trustee. It might also be provided that a meeting should be called on a requisition signed by a certain number of creditors.

Section 15 (2).—Provision should be made for the preparation of the statement of affairs in the event of the debtor absconding or neglecting to prepare it. The present practice seems a convenient one and might be adopted. The Court, on the application of the Official Assignee or a creditor, directs the Chief Clerk to issue advertisements calling upon creditors to bring in statements of their claims supported by affidavit before a fixed date, and the Chief Clerk prepares a schedule from such statements.

The proviso to section 62 (2) authorizes the Official Receiver to employ some persons to assist "in the preparation of a statement of affairs" when the debtor himself cannot prepare it, but that does not go far enough, and will not be found sufficient in the not uncommon cases of residents up-country who hide in their native villages and put the Court at defiance.

Section 16 (9).—The declaration that the debtor's examination is concluded should not prevent his being brought up for further examination in the event of fresh facts transpiring which render such further examination desirable.

Section 17.—If, as I have suggested above, the provisions regarding meetings are omitted or not made compulsory in all cases, this section must be altered. The best plan would seem to be to enact that when a debtor makes a proposal for composition such proposal shall be submitted, in the first instance, to the Official Receiver who, if he considers it reasonable, shall either call a meeting of, or submit the proposal by circular to, the creditors. If the creditors, or a sufficient majority of them, accept the proposal, it should then be submitted to the Court for sanction.

Section 20.—The power to appoint some person other than the Official Receiver to be trustee of the bankrupt's property is similar to that which the Court now possesses, under section 17 of the present Act, to order the election of a special assignee. I have not known a single instance in which that power has been used, and I believe the instances are very rare. In this country there will always be some difficulty in finding a fit and proper person who has the leisure and inclination to accept a very troublesome and responsible office. Again, it is a fact that native creditors are generally suspicious of one another, and prefer a responsible public officer to one of their own body. Nor is it likely that the creditors will often agree as to the person to be appointed, and the making of a selection by the Court will almost always involve delay, and possibly a tedious and contentious enquiry, attended with some considerable expense. The frequent changes among the European population would involve constant changes in the office of trustee of European bankruptcies, and the cost and delay of repeated applications to the Court for appointment of a new trustee in place of a former one who has died or gone home. Management by a public officer has the further advantage of being cheaper than management by a private trustee. The former would not find himself under the constant necessity of consulting a solicitor, while, as a responsible permanent officer of the Court, he might be safely entrusted with a wide discretion and be allowed to take steps for which a private trustee would require the previous sanction of the Court. I have already adverted to the advisability of avoiding frequent applications to the Court. The little use that has been made of the existing power to appoint a special assignee seems to show clearly that administration of insolvent estates by official agency is better adapted to the circumstances of this country than their administration by private agency. I believe that, if this section is passed in its present form, it will be rarely, if ever, used, and I think therefore that it would be well to omit altogether the power to appoint a private trustee, and to entrust the administration of all bankrupt estates to a public officer.

If, however, it is thought expedient to retain that power, then I am clearly of opinion that the person appointed private trustee should always be one of the creditors of the bankrupt; otherwise there will be some danger that the provisions, if used at all, may give rise to a class of professional trustees, and that, when an estate which is likely to be lucrative is brought into Court, we may see several such persons canvassing for the trusteeship and trying to outbid one another.

Section 20 (6).—If it is thought expedient to retain the provisions as to appointment of private trustees in certain cases, then I would suggest that a trustee once appointed and approved by the Court should be removable from his office only by order of the Court on cause shown. It seems to me that this sub-section will increase the difficulty of getting proper persons to accept the office, inasmuch as it makes their tenure of office dependent upon the will of the creditors. The trustee should hold office during good behaviour, and not at the will of the creditors.

Section 21.—I think the power to appoint a committee of inspection will be as little used as the power to appoint a trustee and that, whenever it is used, the committee will serve no useful purpose, but will be a hindrance to the proper discharge of his duties by the trustee. I would, therefore, entirely

omit this section. In the event of a private trustee being appointed, the functions which the Bill gives to the committee of inspection might be exercised by the Official Receiver, while in cases when that officer is acting as trustee no controlling or inspecting authority other than the Court would seem to be necessary.

Section 22.—See my note on section 17 *ante.*

Section 23.—This and the three following sections should prove most useful. One of the great defects of the present Act is that it is comparatively easy for the insolvent to keep the Court and the Official Assignee at arm's length.

Section 26 (1).—I would add "or of any creditor who has proved his debt" after the word "trustee."

Section 26 (4) *and* (5).—Instead of the words "If any person on examination before the Court admits". I would say "If it shall appear to the Court on such examination that any person is indebted," &c., I would further suggest that the Court should be empowered to order the person examined, or any other person, to deliver any money or property which the examination showed him to have received from the debtor under such circumstances as to render it a fraudulent preference, also any property which the debtor has settled upon him by a settlement which would be void under section 41, and also any property which he appeared to hold *bénámi* for the debtor.

Section 27 (3).—The following might be added to the list of *facts* proof of which shall render a bankrupt liable to have his discharge refused or suspended, namely :—(1) failing to give proper assistance in the realization of his assets; (2) procuring or assisting any person to raise a false claim to property of the bankrupt; or it would perhaps be better to add these to the offences punishable under section 105, in which case it would be unnecessary to repeat them here.

Section 27 (5).—When there are creditors residing out of India, longer notice than 14 days should be given.

Section 27 (7).—This ought to be useful. One of the great difficulties of the present Act is that, in the great majority of cases, insolvents after obtaining personal discharge take no further trouble and give no assistance. The only way of punishing them is by refusing their final discharge, but this is practically ineffectual, as about 90 per cent. of the persons who become insolvent never apply for final discharge.

Section 32.—Would it not be well to specify who shall take the account—whether the Court or the trustee ?

Section 34 (1) (*b*) *and* (*c*).—The present Act gives six months' wages, which seems reasonable.

Section 38 (2).—The present Act gives Rupees 300 as the limit of value of excepted articles. That does not seem excessive, especially in the case of Europeans.

Section 38 (2).—The concluding words of this clause seem to be unnecessary in India.

Section 48 (1).—The time allowed to the trustee to disclaim onerous property is the same as that given by the English Statute; but the circumstances of the two countries are so different that that time would frequently not suffice in India. I think the various periods mentioned should be doubled.

Section 50.—I have already said that I believe a committee of inspection will be rarely appointed, and even when one has been appointed I do not think the trustee should be obliged to ask its permission before he can exercise the powers specified in this section. To obtain that sanction will almost always involve delay, and in many of the matters specified expedition may be of the utmost importance. In cases when a person other than the Official Receiver is acting as trustee I would suggest that he should obtain the permission of the Official Receiver to exercise these powers. When the Official Receiver is acting as trustee, he might be safely left to exercise them on his own responsibility and without sanction. See note on section 20.

Section 51 (2) *and* (3).—In a large number of cases it is quite impossible to declare a dividend within four months after the adjudication, or indeed to specify any time within which it will be possible to declare a first or any subsequent dividend. I would omit these two sub-sections. The words in sub-section (1)—"*with all convenient speed*"—will suffice to show that the trustee is to avoid all needless delay, and it will always be open to the creditors to bring undue delay to the notice of the Court.

Section 52 (2).—It will not always be possible to declare dividends of joint and separate property together, for instance, in the not uncommon case of a partner whose separate estate is not sufficient to pay any, or more than one, dividend, while the joint estate may suffice for several dividends; or the perhaps still more common case when the separate estate can pay 100 per cent. at once, while the difficulties connected with the winding up of the business render it impossible to declare a dividend on the joint estate for many months.

Section 57 (1) *and* (2).—For the reasons given in my notes on sections 20 and 50 I would omit the reference to the committee of inspection and would substitute the Official Receiver as the authority to give the requisite permission to a private trustee, while in cases in which the Official Receiver is acting as trustee I would allow him to exercise the powers without previous permission.

Sections 59 *to* 62.—Part IV, which treats of Official Receivers, is one of the most important parts of the Bill, and seems to me to require a good deal of amendment to make it, as it should be, one of the most useful.

In the first place I would observe that the title "Official Receiver" will be likely to cause some confusion. There is already in Calcutta an officer whose official designation is Receiver of the High Court, but who is commonly described as the Official Receiver. Why not retain for the officer to be appointed under the new Act the title of "Official Assignee," with which the Indian public are now familiar ?

I would submit that in common justice it should be expressly provided that the persons who, when this measure passes into law, may be Official Assignees of the present Insolvent Courts should be appointed to be the first Official Receivers (or whatever other title may be given to that officer), and that the rights of their respective establishments to employment not less remunerative than they now enjoy, or to compensation, should be expressly preserved. The Bill to amend the Insolvency Law, introduced by Sir J. F. Stephen in 1871, proposed to substitute Comptrollers in Bankruptcy for the Official Assignees and contained an express provision that the existing Official Assignees should be the first Comptroller in their respective Presidencies. Similarly the English Act of 1883 (sections 94 and 153) saves the rights of all persons holding office under the old Act.

The only reference to the Official Assignee made in the Bill is in section 134 (4), which provides that proceedings pending when the measure comes into force shall be continued as if the Act had not been passed, and that for the purposes of such proceedings the Official Receiver shall be deemed to have been appointed Official Assignee. This shows that the framers of the measure consider the new office analogous to the old one, and it would certainly save much confusion, so long as any proceedings continue under the old law, that is to say, for at least two or three years after the new law comes into force, if the Official Assignees are retained in office as Official Receivers, and use is made of their experience to bring the new procedure into working order.

In a country like India where fraud is not only more common and more subtle, but where the facilities for its successful prosecution are infinitely greater, than in England, it is in the highest degree essential that the powers of the Official Receiver or Trustee (I continue to use the titles used in the Bill, although I have suggested that the former should be changed and that trustees should be altogether omitted) should be strengthened.

One of the main defects of the existing law, and one of the principal reasons—perhaps the principal reason—why it works so unsatisfactorily, is because of the very limited power it gives to the Official Assignee. I admit that these powers are theoretically fairly extensive, but practically they are all but non-existent. He can hardly take a step save at great risk of personal liability. To give only a few examples: an insolvent has no property in Calcutta, but the Official Assignee is informed, perhaps by the insolvent himself, that there is large property in the Mufassal; he takes possession of that property and proceeds to sell it; it almost invariably happens that a number of claimants spring up, who at once file suits against him in the local Courts; the Official Assignee, having no assets in hand, is obliged to decide whether to withdraw from possession at once at the risk of being blamed by the Court or the creditors, or to defend the suits at the risk of being made personally liable for costs. Or again, the Official Assignee ascertains that property which is in the possession of a third party is really the property of the insolvent; if, as often happens, he has no assets, he cannot seize that property without exposing himself to the risk of being held personally liable in a suit for damages. I might multiply instances of the difficulties which confront the Official Assignee under the present law, but I will give only one more—one of not uncommon occurrence. A man files his petition with no other object than that of gaining time and avoiding arrest; he brings in little or no assets, and, as soon as he has got his order for *ad interim* protection, he studiously absents himself from the Official Assignee's Office, and begins, behind that officer's back, to settle with his creditors, taking the more importunate first. If the operation takes a long time, he applies from time to time for an adjournment of the hearing; and when he has just purchased the acquiesence or silence of all of them, he comes before the Court; there is no opposition, and he gets his discharge almost as a matter of course. This is generally the true explanation of a very common occurrence in the Insolvency Court, namely, the sudden and apparently unaccountable collapse of an opposition which had commenced with every appearance of vigour and *bona fides*. It is easy to say that when the Official Assignee has reason to believe that anything of this kind is going on, he has only to bring it to the notice of the Court, and to apply for an order which shall force all creditors who have been paid behind his back to disgorge. But this is not so easy in practice as in theory. When there are no assets, or only nominal assets, in the Official Assignee's hands, it is practically impossible, and even when he has assets he cannot do it, as the law now stands, without running the risk of personal liability for costs.

For these reasons I think that the principal ministerial officer in each bankruptcy should be invested with very extensive inquisitorial, and even *quasi*-judicial, powers. He should be empowered to enter upon the premises of the debtor at all times, and to seize any property which he has reason to believe to be the property of the debtor, even though it be in the actual possession of a third party; he should be allowed to summon before him the debtor or any person whom he believes to be in a position to throw light on the debtor's affairs and to examine them upon oath; perjury committed on such examinations should be liable to the same punishment as perjury committed in Court, and disobedience to such summons should be treated as a contempt of Court and a ground for refusing discharge; in all suits brought by or against him he should be described by his official title, and no suit should lie against him personally for any act done by him *bonâ fide* in the performance of his duties; he should be entitled to two or three months' notice prior to the institution of any suit against him, and suits not instituted within twelve months from the date of the cause of action should be barred; he should be allowed to apply to the Court at all times for advice and instructions, and should have power to bring before it any debtor or person whom he suspects to hold property of the debtor. If an estate is being administered by a private trustee, that trustee should have all, or most, of the same powers and privileges. It may perhaps be objected that such powers are too extensive to be conferred upon any person whom the creditors might select as trustee. That may be—and I think is—a strong argument against the whole system of private trusteeship in Indian bankruptcies. But it does not follow that the powers are too extensive to confer upon a responsible public officer, who would doubtless be selected with a view to his special fitness for their exercise, and who, it may be presumed, although the Bill does not expressly say so, would in all cases be a professional lawyer. It might be well to provide expressly that the Official Receiver shall always be a barrister.

Finally, if the provisions as to private trustees are not abandoned, then the Official Receiver should exercise over private trustees the functions which the Bill gives to the committee of inspection; the trustees should be subordinated to his authority and control, and should be required to furnish him with periodical accounts and reports, and to obey his directions in all matters respecting the estates under their charge.

Section 63.—If, as I have already suggested, the idea of allowing private trustees is abandoned, this section will be unnecessary or will require much alteration. Assuming, however, that that idea is retained as part of the Bill, I would remark that the proposed method of remunerating trustees by a commission, calculated partly on the assets realised and partly on the amount distributed in dividends, is very much fairer than the present system, whereby the Official Assignee is remunerated only by a commission on dividends—a system which has the result that a large number of estates, some of them involving great labor and responsibility, bring him absolutely no remuneration. But I fail to see the justice of denying him commission on sums which he may pay to secured creditors out of the proceeds of their securities. If he has the trouble of realising those securities, he should surely be paid for that trouble. This is recognized by the general rules passed under several of the English Bankruptcy Acts

(see General Rules under Act of 1883, Nos. 65 to 69), which direct that, when a trustee sells mortgaged property under order of Court, his commission and costs shall be a first charge on the proceeds.

I would further remark that the fixing of the remuneration should not be left to the creditors; to do so will give rise to bargaining and will have the effect of degrading the office of trustee. The remuneration should be regulated either by the Act or by a rule of Court.

Section 64 (3) would seem to imply that the trustees must get the sanction of the Court before employing solicitors, auctioneers, &c. This will necessitate frequent applications to the Court, always attended with more or less expense and delay. The employment of such persons might be left to the discretion of the trustee.

Section 65.—The provisions regarding the bankruptcy estates account will impose considerable labor upon the Court, and will necessitate the creation of a new establishment. At present all moneys and securities belonging to insolvent estates are deposited in the Bank of Bengal in the name of the Official Assignee, and that officer has a staff which is specially adapted for, and well acquainted with, the keeping of the necessary accounts, while the fact that his accounts are regularly and strictly audited by the Comptroller-General's Office affords an effectual guarantee against fraud or carelessness. I have already suggested that the Official Assignee should be appointed Official Receiver, and that his staff should be taken over by the Official Receiver. I would add the further suggestion that the bankruptcy estates account should be kept in his name and under his control, the system of a Government audit and a half-yearly report by the auditors to the Chief Justice being continued as at present.

Section 67 (1).—The investment in Government securities should stand in the name of the Official Receiver, and the interest should be devoted to paying his salary and pension (if he is to be remunerated by salary), the salaries and pensions of his establishment, his office and audit charges, and to the costs of advertising and of administering poor estates, so as to leave as large a portion as possible of the assets available for the creditors. This is the present system, which was established many years ago with the sanction of the then Chief Justice on the recommendation of the auditors of the Official Assignee's accounts. It has the advantage of utilising for the general purposes of administration of insolvent estates a large number of cash-balances of individual estates which, by reason of their smallness or liability to immediate demands, could not be separately invested. It removes from the corpus of individual estates the heavy burden of a proportional share of the cost of administration, and substitutes a simple and economical machinery for a clumsy and costly system.

Section 67 (2).—The proposed procedure will take time and cause some expense. If the invested funds are allowed to stand in the name of the Official Receiver for the time being, he can, when necessary, sell them with a minimum of delay and expense, and the audit will be an effectual check upon any misuse of that power.

Section 68.—In this section I would substitute "Official Receiver" for "Court" in respect of all cases in which a private trustee is appointed. Where the Official Receiver is acting as trustee, the regular Government audit of, and periodical report upon, his accounts will suffice. These alterations would save the Court much labor, without diminishing the efficacy of the proposed checks.

Section 72.—My remarks on section 68 will apply *mutatis mutandis* to this section also.

Section 79.—I would substitute the words "Official Receiver" for "Committee of Inspection." See notes on sections 20 and 50 *ante*.

Section 88.—The delegation of powers to a Judge of the Small Cause Court seems most objectionable. The time of the Judges of that Court is already very fully occupied; examinations of debtors or of persons suspected of having in their possession property of the debtor frequently take up several days; and it is certain that in a large number of cases the Small Cause Court would not be able, without a considerable increase to the number of Judges, to give those matters the time and attention they require. Moreover, complicated and difficult questions of law arise so frequently in bankruptcy proceedings that it is most desirable that every step should be taken before a Judge of the High Court. I agree with the Select Committee on the Small Cause Courts Bill of 1880 in thinking that, unless the Small Cause Courts are to hear cases which, owing to their length, intricacy, and difficulty, ought to be removed to the High Court, the saving of time to the latter tribunal will be altogether unimportant. If, as before suggested, the powers of the Official Receiver are extended, he will be able to dispose of a large portion of the petty business. Should his aid not suffice, it would, I believe, be found better and cheaper to appoint a special Registrar for bankruptcy business, as in England, than to delegate a portion of that business to the already over-burdened Small Cause Court.

Section 91.—If the Bankruptcy Courts are allowed to delegate powers to a Small Cause Court Judge, there should be a provision for appeal from his orders.

Section 94.—I think it would be advisable to empower the Court to give the carriage of proceedings to the Official Receiver or Trustee, whenever it has reason to suspect that the want of diligence on the part of the petitioning creditor is due to his having made an illegal arrangement with the debtor. The case is one of frequent occurrence in this country.

Section 103 (*b*).—I would omit the words "with the permission of the Court," as their retention will necessitate frequent applications to the Court with their attendant delay and cost. The Official Receiver, as a permanent officer of the Court, may be entrusted with a wide discretion, and his position will be a sufficient guarantee against abuse of that discretion.

Section 105.—The following offences, all of which are common in this country, might be added to the list of offences which will render a debtor liable to punishment under this section, namely:—fraudulently making away with property; improperly interfering with, or hindering, the trustee in the realization of the bankrupt's property; doing, or procuring the doing of, any act which is likely to prevent the disposal of the property at its full value (for instance, inducing bidders to absent themselves from the trustee's sales); showing fraudulent preference to any creditor; entering into a composition with his creditors, or any of them, without giving notice thereof to the Official Receiver or Trustee; inducing any creditor by an illegal gratification or preference to withdraw, or neglect to proceed with, a petition, or to acquiesce in the discharge of the bankrupt.

Section 110.—The Bankruptcy Court should be empowered to try offences under the Act, and to pass sentence, without sending the offender to the ordinary Criminal Courts.

Section 113.—This section would seem to exclude ordinary business partnerships from the operation of the Act. It is not, however, likely to be held to have that meaning, as it follows the words of the

English Statute, and there is no doubt that such partnerships are constantly adjudicated in England. Still it might be well to make the wording clearer.

Section 132 (2).—The present system of investing unclaimed dividends in the name of the Official Assignee, and devoting the interest to the maintenance of his office and to administering poor estates, works well, and there seems no reason why it should not be continued. See note on section 67 (1) *ante.*

Schedule II.—The English rules regarding the sale of mortgaged property and the taking of mortgagees' accounts (General Rules 65 to 69) are frequently followed here. They have been found to work admirably and to effect a considerable saving of time and expense in realizing mortgage-securities. I would suggest their incorporation in this schedule. The rules in question are substantially the same as those issued by Lord Loughborough in 1794, and the fact that they have been retained, with slight alterations, under the various Bankruptcy Acts passed since that date is strong evidence of their utility.

I have now finished my remarks on the Draft Bill, but, before closing my note, I desire to add a few words on subjects not mentioned therein.

First.—I submit that chapter XX of the Civil Procedure Code should be repealed as regards the local limits of the Courts created under the new law. There seems no valid reason for maintaining in the same place two entirely distinct systems of insolvency law. That the application of chapter XX to the Presidency-towns has not caused very great confusion is, I take it, due only to the rarity of the instances in which the provisions of that chapter have been used. There is, however, a recent case in which the two systems came into direct conflict. I allude to *Pigot* v. *Hastie* (I.L.R. 11 Cal.). The defendant, Mr. Hastie, was on his own application declared an insolvent under the Civil Procedure Code, and was on the same day adjudicated under the provisions of 11 & 12 Vic., c. 21, on the petition of the plaintiff. The fact that the Official Assignee, in whom his estate became vested under the latter proceeding, was also appointed Receiver under the former, alone prevented the raising of serious difficulties and confusion. Moreover, the principles of the Civil Procedure Code insolvency, although they may be adapted for the Mufassal, are altogether unsuited for the Presidency-towns, and will be quite out of place beside the elaborate system of the new measure.

Second.—The introduction, either as part of the Bill or as a separate enactment, of a system of compulsory registration of mortgages on moveable property, similar to the English Bills of Sale Acts, would be a most valuable auxiliary to the bankruptcy law. It is a matter of frequent occurrence, when a tradesman comes before the Insolvent Court, to find that his entire assets are mortgaged to one or two creditors, and that he has been trading for years on a credit which he would certainly never have obtained had there been any means of ascertaining the real state of his affairs. A notable instance of this kind occurred some months ago, when, on the occasion of a well-known and old established trading firm in Calcutta becoming insolvent, it transpired for the first time that their entire stock-in-trade and outstandings were mortgaged to two creditors, who stepped in at once and seized and sold the property. There are some 500 other creditors, to some of whom the firm owed large sums, and none of whom are likely to get any dividend, the entire assets having been swallowed up by the mortgage debts. It may safely be assumed that, had the mortgages been registered, thus affording the public an opportunity of learning their existence, the firm in question would not have obtained such long and extensive credit, and many of the 500 unsecured creditors would have been saved from serious loss. This is only one of many similar instances which have occurred lately.

Third.—A system of compulsory registration of business-partnerships would also be highly valuable.

Fourth.—The system of what are known as *bénámi* transactions is one of the most serious difficulties in the administration of insolvent estates, and, if any means could be devised of grappling with it successfully, an enormous boon would be conferred upon the country. I am well aware of the great difficulty of the subject, and I merely throw out the suggestion as one which might be appropriately considered concurrently with the amendment of the bankruptcy law.

From C. A. WILKINS, ESQ., Registrar, High Court, Calcutta, to the Secretary to the Government of India, Legislative Department, dated 27th February 1886, No. 570.

In continuation of my letter, No. 3049, of the 30th November 1885, I am directed to forward the accompanying printed copy of a report prepared by a sub-committee of the Judges of this Court, as well as a printed copy of a note * by the Official Assignee, on the provisions of the Bill to amend and consolidate the law of Bankruptcy and Insolvency in British India.

2. I am to request that you will be good enough to submit these papers for the consiedration of the Governor-General in Council.

3. I am to add that the High Court concurs generally in the observations made by its sub-committee, and that any further observations that may occur to any individual Judge will be communicated in due course for the information of His Excellency in Council.

Report of the Committee of Judges appointed to consider the provisions of the Bankruptcy Bill.

We regret the lapse of time which has occurred since the Bankruptcy Bill was submitted for our opinion; but the changes which are sought to be introduced by the Bill required grave consideration, and it has therefore been impossible to avoid the delay which has taken place.

We have held repeated sittings, and have come to the conclusions which are hereafter particularly mentioned.

We were met by the preliminary difficulty that the Bill as drafted is, as it professes to be, a reproduction of the last English Bankruptcy Act, introducing English law and methods of procedure and English phraseology, and we had to decide whether the proposal to introduce the English Bankruptcy

* Printed with previous letter from Registrar, High Court, Calcutta, dated 13th February 1886.

Act with modifications into this country offered advantages sufficient to counterbalance the mischief of completely upsetting a system to which, from the practice of many years, to Court, the practitioners, and the suitors had become accustomed.

We have come to the general conclusion that much of the substance of the English law and system of procedure may be introduced in India, but that some important parts of it are wholly inapplicable.

On the other hand we think it preferable to adopt the phraseology of the English Act, except where there is strong reason for not doing so, as thereby the Courts in this country will have the assistance of the decisions of the English Courts.

For the sake of convenience we have dealt with the Bill in the order of the sections.

The following are our recommendations :—

1. We think the proposed form of legislation open to question. An enabling Statute followed by an Indian Act will give rise to questions as to whether the Indian Act has exceeded the powers given to it by the English Statute. The best course will be for the Indian Legislature to pass such Act as may be deemed suited to the requirements of the country, and then to obtain from Parliament a Statute confirming and ratifying the Indian Act.

2 We do not think that the provisions for the appointment of trustees and of committees of inspection are suited to this country. It will be very difficult in most cases to induce creditors to meet together, and in many cases it would be quite impossible to expect creditors residing at a distance to attend any meeting.

Power is given to the Court by section 17 of the Indian Insolvent Act (11 & 12 Vic., cap. 21) to order the election of assignees by the creditors ; but such power has rarely, if ever, been exercised. As far as we can ascertain, in only one case in recent years have creditors applied to the Court for an order under this section ; but, although this shows that creditors prefer to see the estates of insolvents administered by the Official Assignee, there would be no harm in inserting in the new Act a provision similar to that contained in section 17 of the present Act.

Shortly, the objections to the administration of insolvent estates by creditors through trustees and committees of inspection are—

(1) danger to the interests of creditors residing at a distance : the whole administration would be in the hands of Calcutta creditors ;

(2) the general body of creditors would not place the same amount of confidence in a trustee or in a committee of inspection as they would in a competent court officer such as the Official Assignee ;

(3) the expenses of an administration by the creditors would be very large : in all cases the trustee, and in many cases the committee of inspection, would have to be remunerated ; the former would be paid by commission, but the latter would be paid according to the number of their meetings, and would therefore not be inclined to expedite the winding up of the estates ; with an Official Assignee representing the creditors, the legal expenses of the administration are minimised, as the Official Assignee is usually a barrister of some standing ; in the case of administration by the creditors, no step would be taken without legal assistance, which would have to be paid for out of the estate.

For these reasons we would strike out from the Bill, as now drawn, the following sections, namely :—sections 11, 14, 17, 18, 19 [sub-sections (2) and (3)], 20, 21, 22, so much of section 23 as relates to meetings of creditors, sections 63 to 81 (both inclusive), section 103, sub-section (*b*), and section 118 ; and the following sections will require alteration, namely :—sections 47, 50, 110, and 132. The first schedule will also become unnecessary.

3. We think it important that the insolvency sections of the Procedure Code should cease to apply to the Presidency-towns.

As the law at present stands, it is possible for a debtor in Calcutta to seek relief from his debts both under the Civil Procedure Code and under the Insolvent Act. The main advantage to an insolvent of proceeding under the Code is that he can under section 336 be relieved from imprisonment as soon as he is arrested. The main advantage of proceeding under the Act is that if he be a trader he can get his final discharge without paying any portion of his debts. There are also many other points of difference between the two systems of insolvency, that under the Code being very unsuited to the requirements of a commercial city like Calcutta.

The disadvantages of having two different systems of insolvency law and procedure applicable to the same place do not require enumeration. They have been made apparent in two cases, in which recently attempts have been made to work the two systems concurrently (in the matter of *Hastie*, I. L. R. 11 Cal. 151, and in the matter of *Leckie*, now pending).

4. We recommend that the expression "vesting order" should take the place of the expression "receiving order" in the Act, and that the court officer to whom the management of the estates of insolvents is to be entrusted should be called the "Official Assignee" and not the "Official Receiver." There is already an Official Receiver of the High Court, and the appointment of another officer with the same official designation, but with different powers and duties would lead to confusion.

5. Section 3, sub-section (1) (*d*), should be altered to meet the case of a man carrying on a business by himself, or by his agent or gumasta, and closing such business. Under the 9th section of the present Insolvent Act, a trader who, with intent to defeat or delay his creditors, departs from his usual place of business within the jurisdiction of the Supreme Court, is liable to be adjudicated an insolvent, and it is on this ground that most adjudications are made.

We do not think that paragraphs (*e*) and (*g*) of sub-section (1) of section 3 ought to be retained. In their place we would recommend the introduction of provisions similar to those contained in sections 8 and 9 of the present Act, as to persons lying in prison 21 days, and as to fraudulent executions, including not only executions in fraud of creditors generally, but also executions in the nature of fraudulent preferences.

6. The effect of the proposed Act would be to limit the insolvency jurisdiction of the High Court. By section 18 of the Charter of the Calcutta High Court (1865) it is provided "that the Court for Relief of Insolvent Debtors at Calcutta shall be held before one of the Judges of the High Court of Judicature at Fort William in Bengal ; and the said High Court, and any such Judge thereof, shall have

and exercise, within the Bengal Division of the Presidency of Fort William, such powers and authorities with respect to original and appellate jurisdiction and otherwise as are constituted by the laws relating to insolvent debtors in India" By section 5 of the Indian Insolvent Act an insolvent debtor who is in prison within the limits of the town of Calcutta, or *who resides within the jurisdiction of the Supreme Court at Calcutta*, can petition for relief. The Supreme Court at Calcutta had a personal jurisdiction over all European British subjects residing in Bengal. Their jurisdiction over persons other than European British subjects was limited to the town of Calcutta. It is settled law that the effect of these provisions is to entitle all European British subjects who reside in Bengal to petition for relief from their debts, but that persons other than European British subjects cannot so petition unless they actually reside within the limits of Calcutta. In the cases of creditors' petitions the only limit of jurisdiction seems to arise from the acts of bankruptcy, some of which are restricted to the areas mentioned in the Insolvent Act. This is not a question of a choice between two jurisdictions, as the insolvency procedure applicable to Courts outside Calcutta cannot pretend to be efficient or to meet in the smallest degree the requirements of the commercial classes. We think therefore that the present insolvency jurisdiction of the High Court in this respect should not be curtailed.

7. We think that in the case of a debtor's petition the vesting order should be made at once, and as a matter of course. on the reception of the petition.

In the case of a creditor's petition we think that, as at present, if a *primâ facie* case be made out on the petition, the debtor should be adjudicated an insolvent and his property vested in the Official Assignee at once. Any delay in making the vesting order would make it impossible in most cases to save any of the debtor's property for his creditors. In order to prevent the risk of an improper adjudication, it will be well to provide that the debtor may at any time before his public examination come in and apply to have his adjudication annulled, and that it shall be so annulled unless the creditor satisfies the Court that the debtor has committed an act of bankruptcy. Section 19, sub-sections (2) and (3), might therefore be omitted from the Bill.

8. Section 9 of the proposed Bill does not clearly provide for *ad interim* protection orders, and therefore we recommend that power should be given to the Court, in terms similar to the provisions of section 13 of the Indian Insolvent Act, to grant orders for the protection of insolvents for such time as the Court might direct. The granting of such protection should be within the discretion of the Court, and the Court should have power to revoke a protection order at any time.

9. We think that the mere fact "*that a majority of the creditors in number and value are resident in the United Kingdom or in any other part of Her Majesty's dominions beyond the limits of British India*" should not give a creditor or other person the right to set aside an adjudication, and we recommend that in section 13 of the Bill the above words in italics should be transposed and placed between the words "the debtor" and the words "other cause" later on in the same section.

10. With reference to section 15, sub-section (1), we think that the statement of affairs should be filed in Court, and that a copy should be filed in the office of the Official Assignee. It is necessary that there should be two copies, and it is desirable that of the two the one filed in Court should be taken as the original statement with respect to sub-section (4) of section 15. We think that the statement therein mentioned should be in a written application for inspection to be filed in Court.

11. Section 16, sub-section (9), should empower the Court at any subsequent stage to re-open the public examination and to order a fresh examination of the debtor.

12. We do not think that in this country any creditors, however superior in number or value, should be able to force a composition upon the other creditors.

13. Section 23 should require the insolvent to attend at the Official Assignee's office or wherever required by the Official Assignee, and to give that officer every assistance in realizing his estate and distributing the proceeds.

14 All references to a *bankruptcy notice* should be struck out of section 24.

15. In addition to the powers mentioned in section 26, we think that the Court should have power at any time after a vesting order has been made, upon application by the Official Assignee *ex parte*, to make an order empowering the Official Assignee to take possession of any property as the property of the insolvent. With regard to such property and also with regard to other property which may be claimed by the Official Assignee or the creditors to belong to the estate, we think that the Court should have the same power, as in a regular suit, and with the same right of appeal to determine finally all questions between the insolvent's estate and persons in possession of or claiming such property. The High Court should be empowered to frame rules of procedure for the trial of these questions, and also for the payment of the expenses of witnesses to be examined under section 26.

16. Section 27 of the proposed Bill seems to place upon the opposing creditor the burden of proving that the debtor is unworthy of obtaining his discharge. We think that a debtor should, before any relief is granted to him, satisfy the Court, not only that he has not been guilty of the acts specified in the Bill as disentitling him to his discharge, but also that he has been neither dishonest in his dealings nor culpably imprudent in respect of his personal expenditure or the conduct of his business. This principle has been recognized by the Legislature in section 351 of the Civil Procedure Code.

We think that section 27 should be altered so as to permit the debtor, should the Court refuse to grant him a discharge, to renew his application for such discharge at a future date; otherwise it might be held that, if the Court had once refused to grant an order of discharge. the debtor was for ever thereafter debarred from obtaining such discharge. On the other hand it will be necessary by some limitation to prevent frequent applications to the Court upon the same materials.

17. It will be necessary to provide for the discharge of the debtor in the case of the whole body of his creditors releasing him from the whole or a portion of his debts. Section 58 will also have to be altered to meet this event.

18 With reference to section 29 of the Bill, we think it will be as well to give the Court power in discharging an insolvent to exempt him from arrest, either generally, or with the exception of particular debts, or after such period as to the Court may seem fit.

We would also recommend that in this section the words "any person for any offence against an enactment relating to any branch of the public revenue" should be struck out, and that the words "Secretary of State" be substituted therefor.

19. In the case of an adjudication being annulled on the ground that the debt alleged by the petitioning creditor was not a good debt, we think that the Court should have power to allow the bankruptcy to proceed as upon the debt of another creditor.

20. With reference to section 36, we would point out that in Calcutta rents are payable monthly, and that, therefore, the landlord should not be entitled after the bankruptcy to levy for more than three months' rent.

21. With regard to section 37, we think that in the case of a debtor's petition the assignee's title should commence at the date of the vesting order, and not before.

22. We do not think that an attaching creditor should be entitled to any priority over other creditors, unless the proceeds of execution have been paid to him. This alteration might be effected by striking out from section 39 the words "realised in the course of execution by sale or otherwise," and substituting therefor the words "actually received by such person."

As the law at present stands, a creditor who procures an attachment before the vesting order is in a better position by reason of the insolvency of his debtor than he would be without it, as he obtains a title preferable to that of the general body of creditors; and other decree-holders who would, under the Code, on obtaining orders for attachment, be entitled to share *pari passu* with him, are prevented by the insolvency from effecting attachments.

23. Section 50 should be altered so as to give the Official Assignee, with the leave of the Court, power to do the acts therein mentioned.

24. As to sub-section (1) of section 62, the only part which, having regard to our previous recommendation, need remain is the part relating to advertisements. The duties, powers, and liabilities of the Official Assignee should, however, be clearly defined. We think that his liability should only extend to assets in his hands, unless the Court should find that he had not acted *bonâ fide* in the performance of his duties. We also recommend that he should be entitled to at least one month's notice of action in respect of acts done by him in his official capacity.

25. In sub-section (2) of section 62 the words from "but shall" to "claiming to be creditors" should be struck out.

26. Part V of the Bill requires alteration to meet the case of the Official Assignee, who is an officer of the Court. The Court should have power to determine the amount of commission or percentage payable to him. We think that if, at the request of a secured creditor, he realizes the security, the Court should have power to sanction the payment to him of a percentage on the amount realized.

27. We do not think it desirable that the extension of the Act to local Courts as contemplated by section 82, clause (*c*), and section 83, clause (*c*), should be carried out, except through the action of the supreme Legislature.

28. We have already discussed the effect of section 83, clause (*a*).

29. We think that section 85 should be struck out, and that the Insolvency Court at Calcutta should have power to transfer to itself any insolvency proceedings under the Civil Procedure Code which may at any time be pending in the Civil Courts subject to the High Court.

30. We think that section 89 should be struck out.

31. It should be made clear that the powers proposed to be given to the Court by section 90 extend to persons other than insolvent debtors and their creditors.

32. Having regard to our other rcommendations, section 99 requires alteration, and section 103 (*b*) and the proviso at the end of section 103 should be struck out.

33. If section 109 is intended to apply to compositions under the Act, it should in our opinion be struck out.

34. We presume that it is intended by section 113 to prevent a receiving order being made against a partnership in its firm name. If so, the section should be made clearer.

35. We do not recommend that estates of persons dying insolvent should be administered in the Bankruptcy Court except in the cases where they die during the pendency of bankruptcy-proceedings.

36. Having regard to our previous recommendations, it will be unnecessary to retain the second paragraph of section 132.

37. We think that the rights of present officers of the Insolvent Court in respect of pension or otherwise should be saved.

In conclusion we wish to remark that in this report we have only called attention to the general principles on which we think the Bill requires alteration.

There are many questions of detail which will have to be considered before a Bankruptcy Bill is passed into law.

(Signed) A. WILSON.
(„) J. PIGOT.
(„) E. J. TREVELYAN.

From S. E. J. CLARKE, ESQ., Secretary, Bengal Chamber of Commerce, to the Secretary to the Government of India, Legislative Department, dated 30th April 1886.

My Committee have submitted their remarks upon the new Bankruptcy Bill for India to the Government of Bengal, who will doubtless forward them to you in due course, but, in order to save time, now that the draft Bill is before the Legislative Council, I am directed to send you with this letter four extra copies of the Chamber's letter of this date.

From S. E. J. CLARKE, ESQ., Secretary, Bengal Chamber of Commerce, to the Acting Chief Secretary to Government, Bengal, dated 30th April 1886.

I am directed by my Committee, in reply to your No. 1335, J.D., of 8th July last, to submit the following observations upon the draft Bill to amend the law of Bankruptcy and Insolvency in British India.

Generally, my Committee are of opinion that the Bill makes a much-needed improvement in the law at present in force. Should the Bill become law, and if its administration be carried out with close care and attention, it will do much to simplify proceedings in insolvency and, my Committee believe, to check fraudulent bankruptcies. It will thus afford a larger measure of convenience than heretofore to unfortunate persons, whilst at the same time it will extend to creditors some measure of that protection which the mercantile community especially have long desiderated, and the need for which has been pressed upon the Government at various times by the Chamber of Commerce.

Whilst accepting the Bill as an improvement upon the existing law, my Committee think that in some points it does not sufficiently recognize the peculiar circumstances of India, or the difficulties which those circumstances frequently place in the way of creditors, or the facilities which are offered to Native dealers in evading the payment of their debts. This subject has been long before the Government and the public; and, whilst admitting the difficulties which surround it, my Committee still think it is a matter to be kept very closely in mind in framing any new insolvency law for British India. Indeed, in spite of the failure some years ago which attended the attempt to frame a Bill to provide for the registration of partnerships, my Committee cannot but consider that it is extremely desirable that a new inquiry should be made with the view to ascertain whether such a registration cannot be secured, or to bring into prominence the existing provisions of the law in India which afford to some extent the protection to be derived from such a measure. Since the failure both in Bombay and Calcutta to draft a satisfactory Bill dealing with this subject, some change has come over the views of Native merchants, and the more prominent among them have evinced a desire to have the question re-opened. Those who have transactions directly with English markets and in the natural development of Indian trade, the number of whom is slowly but steadily increasing, evince quite as much anxiety for the passing of a law to compel a registration of partnerships as the European mercantile community. It would be well if, in connection with so large and important a measure as a new Bankruptcy Bill for all India, a careful and exhaustive inquiry were made into the subject of the registration of partnerships.

Another extremely difficult subject to deal with, but one which, when a bankruptcy measure is before the Legislature, should not be overlooked, is the practical exemption which a fraudulent Native trader can acquire by taking shelter within the jurisdiction of some Native State. My Committee are aware of instances where Europeans have availed themselves of this shelter to avoid decrees of the High Court, and though in the case of Europeans the shelter might not be so effectual as in the case of Natives, yet the fact ought not to escape the attention of the Legislature that under present circumstances for a Native insolvent to cross from British into Native territory is to give him an immunity the certainty of obtaining which is found to encourage reckless speculation and a ready resort to fraudulent practices. The impunity with which a fraudulent Native debtor can set his creditors at defiance, and in especial the smallness of the dividends derivable from the estates of Native insolvents, have been grievances of the mercantile community in this city for very many years. Indeed, so far back as 1853, the latter formed the subject of a reference from the Chamber of Commerce to Mr. John Cochrane, the then Official Assignee. What the Chamber then complained of is still a serious ground of complaint. There seems to be no good reason why, with proper precautions, decrees of the Indian High Courts should not be allowed to run in the jurisdiction of Native States. The matter is one which my Committee feel is most properly within the province of the Foreign Department of the Government of India, but they see no reason why the Legislative Department should not move the Foreign Office to deal effectually with so important a question, nor why the Foreign Department should not undertake this task in close communication with the Legislative Department, and, if need be, with the Judges of the High Courts in India. The greater the improvement in the bankruptcy law of India and the greater the simplicity which may mark the procedure of the Insolvency Courts, the greater will be the anxiety of a Native insolvent who has been guilty of fraud, concealment of property, the setting up of fictitious co-partners or wrongful preference of particular creditors to avoid appearing before an Insolvency Commissioner; and in this way it may well happen that improvements in law and procedure will have a tendency to accentuate and render more acute the grievance alluded to above and which is felt equally in all the great trading centres of India.

One change of great moment effected by the Bill is that which makes a trustee appointed by the creditors the primary authority for administering an insolvent's estate, whilst the Official Receiver is only to act if the creditors fail to appoint a trustee.

Section 14 of the Bill has the support of my Committee. It should, however, in their opinion, be made clear that, if the creditors of an insolvent will not attend a meeting to consider his position, the Official Receiver shall have the powers to act in the premises upon his own responsibility. My Committee do not feel themselves in a position to recommend that the powers now vested in the Official Assignee, which powers they consider all that are reasonably necessary to enable him to take possession of the property of a bankrupt and to realise the same for the benefit of the creditors, should be extended. But with reference to clause (5) of section 26, they can see no objection why a larger measure of protection than he now enjoys should not be given to the Official Receiver. Where it is clear that that officer has acted in good faith, they consider that he should not be held personally responsible in the event of its being shown that he acted under a mistake or upon information wrong in itself, but accepted by him as correct. Redress in such cases should, my Committee venture to think, be obtainable not at the expense of the Official Assignee but at the cost of the estate concerned.

It is a frequent subject of complaint that an insolvent's books are not promptly forthcoming, that his accounts are confused and in many cases unintelligible, that there is a want of system in presenting an insolvent's accounts, and that schedules are amended as a matter of form. Reviewing these matters, it appears desirable that the office of the Official Receiver should be strengthened by having attached to it an experienced professional accountant. The books of an insolvent should vest in the Official

Receiver from the date of the adjudication order. A report should be made at the next sitting of the Court that the books are either in the Official Receiver's hands or under his authority and control. The accounts of the estate could then, as might prove most convenient, be made up either in the office of the Official Receiver, where the insolvent would attend for this purpose, or in the insolvent's office under the inspection of the official accountant. In either case creditors would receive additional and much-needed security, time would be saved, and a greater interest in the settlement of the estate be exhibited on the part of creditors. It will be seen that this suggestion does not in any way throw obstacles in the way of a bankrupt's access to his books or to his closing of them correctly. It would compel him rather to avoid all unnecessary delays, and to furnish the Court with as correct a statement of his position as possible at the earliest possible moment. The immediate supervision of the preparation of this statement by the official accountant, or his close inspection of the books whilst it was being drawn up, would effectually deprive insolvents of the many common excuses which are now put forward for delaying the making over to the Official Assignee of the records of a business. The provisions of the draft Act as to the delivering up of a bankrupt's books should be thoroughly and carefully enforced, and as a corollary means should be provided to secure that the books shall be properly cared for. There are not a few insolvents who require experienced and capable assistants to enable them to close their books. At the same time the knowledge that, upon the occurrence of an act of insolvency, the closing of the books would be imperative and prompt would tend to greater strictness in the keeping of accounts, and would in itself cure that carelessness which insolvency commissioners in India are constantly reprobating. The suggestion that the office of the Official Receiver should be strengthened in the way above indicated has been put forward by my committee because of the great importance which cannot but be attached to the speedy closing of an insolvent's books. They would prefer that, so far as possible, this should be done by a professional and experienced officer responsible to the Official Receiver and the Court rather than by some skilled but outside agency. In connection with this particular question, and as pointing to a branch of duty which would devolve upon an official accountant, it is extremely desirable that information as to the position of an insolvent's estate should be more generally and more readly available than it is at present. This end could only be attained with the greatest advantage to all concerned. My Committee would, therefore, suggest that it should be a direction to the Official Receiver or other trustee in bankruptcy to issue periodical reports duly certified by the official accountant and the progress made in realising the assets of each estate. These reports should be circulated at reasonably brief intervals, and should give creditors all the information needed to enable them to understand the progress made in settling a bankrupt's affairs. It is very desirable that creditors should be encouraged to take a steady and persistent interest in the liquidation of an estate, and nothing seems so likely to produce this result as an assurance that delays will be reduced to a minimum, and that the Official Receiver or Trustee shall, as a matter of course, keep the creditors informed of that which it most concerns them to know. In this way the reproach which now attaches but too often to proceedings in the Insolvency Courts, that they are more or less of a purely formal character, would be done away with, and the Courts themselves would be in a better position to judge of the character of an insolvent's dealings and to distinguish between unjustifiable and speculative trading and bad fortune arising from the accidents of trade or of living.

The suggestion for the periodical circulation amongst creditors of statements showing the progress made in liquidating an estate applies equally to a trustee other than the Official Receiver or to a committee of inspection. Hitherto one of the main difficulties in working the existing Act has been the apathy shown by creditors, and it is, in the opinion of my Committee, necessary to show creditors that they can, with little trouble, acquaint themselves with all that concerns them as regards an insolvent estate, to induce them to attend meetings, and to take an active part in the winding up of their debtor's affairs. So long as creditors believe that to attend meetings is to proceed without knowledge, to arrive at no result or practically to waste time, so long will they avoid, unless under necessity, attendance at such meetings. Where the amount involved in a bankruptcy is small, the chances of getting together the creditors are small indeed, and in such cases it may be useful to reserve to the Official Receiver power to call a meeting of creditors at his discretion.

The attention of the Committee in the course of the discussions on the draft Bill has been in various ways strongly drawn to the question of protection against *bénámi* dealings and the fraudulent transfer of property of a trader who might be actually insolvent at the time of the transfer but who might continue to carry on his business and thus secure to the transfer something of a time sanction. *Bénámi* dealings, especially in cases of insolvency, are somewhat common and ought to be in a special way guarded against In this connection it would seem that sections 28 and 41 of the draft Bill should be read together. In section 28 it is not as clear as it should be that the property therein indicated, as dealt with in the case of a settlement made before and in consideration of marriage, or in the case of a covenant made in consideration of a marriage for a future provision of the settlor's wife or children, that the property so disposed of would be regarded by the Court as an asset of the estate. This section is governed by the provisions of section 41, but still the matter is one which should not be left in doubt. So long as there may be a doubt there will be a temptation to endeavour to evade the law.

My Committee accept the limitation of time in section 41 after the lapse of which settlements made by persons who may become bankrupts cannot be impeached as reasonable and proper. Allusion has been made to *bénámi* cases and to the frequency with which such transactions are resorted to by Natives. The provisions of section 41 should be made sufficently wide to take in cases of *bénámi* purchases in the names of the wives and children or other relatives of bankrupts or the transfer of property to them. So far as my Committee can see, such cases are not provided for in the proposed Act. They would commend this question to the attention of the Legislature. On the one hand, it has been urged that property standing in the names of wives or children of a Native bankrupt should be presumed to be the property of the bankrupt and dealt with accordingly until the contrary was shown. But it would be unjust to throw upon a wife or children the burden of proving their right to property made over to them in good faith and at a time when the transferor was in a solvent position or in a position which would make the transfer a measure of prudence. In such a case the property so transferred, should the transferor subsequently become bankrupt, would be all that the wife or children could look to for their support. Such cases require protection. Still it is extremely desirable that

bĕnámi translations should be provided for, and my Committee would commend this subject to the attention of the Legislature.

There is another matter which ought to receive attention, and in regard to which it appears desirable that the present opportunity should be taken to provide a much-needed remedy. Cases occasionally crop up where, although there may not be an application to the Bankruptcy Court, still one creditor steps suddenly in, closes a business and takes possession of all its assets. In such cases the general body of creditors are shut out altogether from participation in the assets, or find their interests postponed to those of a special creditor of whose rights they have been kept in ignorance. That such a state of things is possible opens a wide door to reckless trading and still more reckless borrowing. As the law in India at present stands, a lender is entirely at the mercy of the representations which may be made to him, and may in perfect good faith advance money for the assistance of a business which is not only actually insolvent but which may be in a condition where for all practical purposes it may be said to be carried on for the benefit of the creditor holding a possessory mortgage. In England this class of cases is dealt with by the Bills of Sale Act. Instruments of the kind alluded to must be registered within twenty-one days, and under certain circumstances are absolutely null and void as against a decree of the Court, a trustee in bankruptcy or in the event of the insolvency of the maker of the mortgage. In India it is very desirable that all instruments of this class should be made to come under the provisions for compulsory registration. The records of the Insolvent Court and the experience of the Official Assignee will amply bear out the necessity for some action such as that just suggested. It seems to convert the Bankruptcy Courts into a shelter for fraudulent dealings when a bankrupt who has deprived the general body of his creditors of security for their claims applies to the Court for protection against any steps they might ordinarily institute againt him.

My Committee approve of the provision which retains for India imprisonment for debt. A very great number of Native traders are not subjects of the British Government, and have a means of conveying greater or lesser portions of their assets out of the jurisdiction of British Courts. Another large section of Native traders shelter themselves behind the Hindu custom of joint family; where such a custom prevails, and where important classes of Native dealers have their domicile beyond the limits of the territories directly administered by the Government of India, it is necessary that imprisonment for debt should be retained even if, on general grounds, a good case could not be made out in its favor.

Section 34 provides that a limit of Rupees 500 as wages shall be paid, in priority to all other debts, to any clerk or servant who may have rendered services to the bankrupt during four months before the date of the receiving order. My Committee are strongly in favor of a limit in the amount to be paid under this section, but they consider Rupees 500 too low considering the average range of the salaries of assistants. They would make the limit Rupees 1,000, but would require that the amount of wages due to any clerk or servant should be certified by the Official Receiver or Trustee, or the official accountant of the Receiver's office.

Section 36 gives power to a landlord to distrain for one year's rent accrued due prior to the date of the order of adjudication. This provision would appear to be unnecessary considering the powers already ordinarily enjoyed by landlords.

My Committee are not disposed to cavil at the provision contained in section 46 of the Bill. Where the Crown reserves to itself the right to dismiss its servants as a punishment for insolvency, it seems reasonable that it should retain the alternative of regulating the amount to be retrenched from the pay of an employé.

It would appear to be in consonance with reason and the spirit of the Bill that the lying in prison of a person under a warrant of arrest in execution of a decree of the Courts, as well as the closing of, or departing from, a place of business with intent to defeat or delay creditors, should be declared to be acts of bankruptcy on which a receiving order should be made. The latter is, under the present law, a ground for adjudicating a trader, and the lying in prison under a warrant of arrest in execution of a decree, a ground for adjudicating a non-trader a bankrupt. There seems to my Committee no good reason why they should be omitted from the proposed Act, more especially as cases can readily be conceived in which the omission of these circumstances as acts of bankruptcy might give rise to difficulty. The lying of a debtor in prison is sufficient to give the proposed Bankruptcy Court jurisdiction, and it ought therefore to be declared to be an act of bankruptcy. It does not appear to my Committee that paragraphs 19, 20, and 21 of the Statement of Objects and Reasons give any good reason for excluding the jurisdiction of the Court in cases where persons are personally subject to the jurisdiction otherwise, and by reason of their being imprisoned or having within a twelvemonth ordinarily resided or had a place of business within the local limits of the Court's jurisdiction. At present persons who come to Calcutta to sell produce, purchase goods, or to make contracts in this city for such purposes are in respect of such contracts liable to be sued in the Calcutta High Court.

As the draft Bill is framed, a Calcutta merchant who had obtained a decree against a person in the position referred to would be unable to avail himself of the provisions of the proposed Bankruptcy Act for enforcing payment of the amount for which he had obtained a decree. My Committee are decidedly of opinion that it would be a great advantage to the mercantile community if in the proposed Act the bankruptcy jurisdiction were extended so as to include all cases in which the High Court has jurisdiction to entertain a suit.

The order and disposition clause, section 38, sub-section (3), provides for all moveable property in the order and disposition of a bankrupt, with the consent of the true owner, being dealt with as the property of the insolvent. This sub-section (3) is substantially identical with the order and disposition clause in the present Act. Under the section of the existing Act it has been held that property left by the true owner, being a mortgagee, in the possession of a firm the resident member of which becomes an insolvent, is not in the possession, order or disposition of the insolvent within the meaning of the Act, inasmuch as it is not in his sole possession, order or disposition, but in that of himself and his absent partners jointly. It was, therefore, ruled in *ex parte Gubboy* in *re Morgan* (I. L. R. 6 Cal. 633) that the clause does not apply. It is very rare indeed to find in any business, whether carried on by Europeans or Natives, that all the partners are resident, and, this being so, the ruling referred to has in a large majority of cases the effect to a great extent of nullifying the possession, order or disposition clause, which is a very useful position to be maintained in the interests of the creditors generally of a bankrupt estate. My Committee would, therefore, suggest that sub-section (3) of section 38 of the draft Bill should be amended in a way to meet the difficulty which the decision in *Gubboy* in *re Morgan* has raised.

Possibly section 102 of the Bill, which provides that a creditor of a firm may proceed in bankruptcy against the firm in the name in which it carries on business, may in the case of some of the acts of bankruptcy specified in section 30 of the Bill get over the difficulty which has been pointed out. But the matter is doubtful, and the question is one of such great importance that my Committee consider the doubt should be removed as far as possible.

My Committee cannot accept the suggestion made in section 88 that any of the functions of a Court of Bankruptcy should be delegated to a Small Cause Court Judge. The Small Cause Court is a Court of summary jurisdiction. Its files are overloaded with business, and to transfer to it insolvency business would alter the character of the Court, establish direct insolvency jurisdictions in the Presidency-towns, and prove an inconvenience, instead of a convenience, to the public. The preferable course would be to follow existing precedents and provide for the appointment of a Registrar of the Bankruptcy Court. The work could not be imposed upon the Registrar of the High Court, for the officer is in the Calcutta High Court already overburdened with business. A Registrar of the Bankruptcy Court might have delegated to him duties similar to those performed by Registrars in Bankruptcy at Home. He might also perform the functions which under the English Bankruptcy Act are fulfilled by the Board of Trade.

It would probably be found a convenience if affidavits which have to be made in England and Scotland in cases of Indian bankruptcy should be sworn before the Permanent Commissioners already appointed by the Indian High Courts to take affidavits in those countries, and that affidavits sworn before such Commissioners should be admissible in bankruptcy proceedings in this country.

My Committee consider that a trustee appointed under section 20 should, unless good cause can be shown to the contrary, invariably be a creditor of the insolvent; such a trustee once appointed should only be removable by order of the Court and upon cause shown. My Committee do not think it would further the ends of justice to allow a trustee, so far as his work is concerned, to be at the risk of disputes amongst the creditors. Besides, by making him removable only by an order of Court, a greater directness of responsibility is obtained, any by so much a greater security for the interests of all concerned. Where a trustee is appointed my Committee incline to think that he should liquidate the bankrupt's estate under the inspection of the Official Receiver, who in such a case would fulfil the functions of a committee of inspection.

Section 26 might be amended so as to give the Court power to order, according to the information elicited in the course of proceedings before it, to deliver over any money or property which that information might show to have been received from the insolvent as the result of a fraudulent preference, as also any property vested in him by a fraudulent settlement or which he appeared to hold *bénámi* for the bankrupt.

Sub-section (5) of section 27 appears to have taken no account of the possibility of creditors residing out of India. In such a case the notice of 14 days provided by the sub-section would be insufficient. The sub-section might be so amended as to show clearly the distinction between English and Indian creditors as respects the notice.

In section 32 there is an omission. The section provides for accounts to be taken when there have been mutual dealings between a bankrupt and any other person, but does not state to whom the account shall be rendered.

Section 38 gives Rs. 200 as the value of the excepted articles. The existing Act gives Rs. 300 as the value of such articles, and my Committee do not see why this limit should not be maintained in the proposed Act.

My Committee would suggest that the time allowed under section 48 for a trustee to disclaim onerous property should be enlarged from two months to six months. The circumstances of India are in every way so different from those in England, and such great difficulty attaches to a proper ascertainment of the character of properties, that to limit the period of disclaimer under this section to two months only would, my Committee believe, seriously interfere with its working.

My Committee would make the permission vested by section 50 in the Committee of Inspection depend rather upon an order of the Court. The same remark applies to section 57.

Clause (2) of section 52 appears to overlook the radical differences between separate and joint estates. These differences ought to be acknowledged so far that the direction to declare dividends together should be amended and powers given to declare dividends separately.

It would facilitate business if the latter portion of clause (3) of section 64, from the words "The officer shall, &c.," to the words "duly sanctioned," were omitted. If a trustee or manager acts with the permission of the Court under sections 50 and 57, there is no need for him to take further sanction for the details dealt with in this sub-section, more especially as all charges incurred under this sub-section must be taxed.

Referring to section 65, my Committee would not recommend any interference with the existing system, by which bankrupcty estates accounts are kept in the name of the Official Assignee and audited by Government officials who submit half-yearly reports on such audit to the High Court. The like remark applies to section 67, clause (1).

In section 94, which gives the Court power to change the carriage of proceedings, my Committee would include, besides any other creditors, the trustee or the Official Receiver as persons who might be substituted to carry on the proceedings

In section 103, clause (*b*). my Committee can see no reason for making the action of the Official Receiver depend upon the "permission of the Court," and would recommend that those words be omitted.

My Committee would add to the offences punishable under section 105 of the Bill the following:— failing to give proper assistance in realizing his assets; procuring or assisting to raise a fraudulent claim against the assets of the estate; improperly interfering with the realization of the assets; fraudulently making away with property; doing that which might result in preventing the disposal of the property at its proper value; showing a fraudulent preference to any creditor or entering into any composition with any creditor; inducing any creditor by an improper preference or otherwise to neglect or delay to proceed with a petition, or to agree to the discharge of the bankrupt.

My Committee cannot approve of the transfer of offences provided for in section 110, and would prefer that the Bankruptcy Court should itself deal with offences under the Bankruptcy Act.

The wording of section 113, providing for the exclusion of partnerships and companies, should be made more clear. As it stands it might be objected that it excludes ordinary business partnerships from the operation of the Act, which is against the present practice as well as against the spirit of the draft Act itself.

My Committee cannot see what utility will result from changing the designation of the "Official Assignee" to that of "Official Receiver." There is already an officer of the High Court known by this latter designation, and to retain the style "Official Receiver" would be to introduce something of confusion and to change a title thoroughly well known and comprehended.

In conclusion my Committee desire me to report their opinion that the draft Bill is an advance upon the existing Act. They would suggest that the Legislature should consider the expediency of retaining chapter XX of the Civil Procedure Code as regards the local limits of the Courts established under the bankruptcy law, and they would again urge that, in the consideration of the draft Bill, the utmost weight, and the most careful attention should be given to the points of difference between the circumstances of England and India.

S. HARVEY JAMES,
Offg. Secretary to the Government of India.

(Republished by order of the Right Honorable the Governor in Council.)

E. F. WEBSTER,
Chief Secretary.

MADRAS: PRINTED AND PUBLISHED BY R. HILL, AT THE GOVERNMENT PRESS, FORT ST. GEORGE.

FORT ST. GEORGE GAZETTE SUPPLEMENT.

FRIDAY EVENING, JUNE 18, 1886.

DIEU ET MON DROIT

HONI SOIT QUI MAL Y PENSE

OFFICIAL PAPERS.

No. 1270.

AVERAGE Number of Government seers of eighty tolahs of Grain and Salt per Rupee and Rain Report of all the districts of the Madras Presidency for the month of April 1886 (Fasli 1295).

Districts.		Number of Government seers of eighty tolahs per Rupee.								Rain-fall.
		Second-sort Rice.		Cholum.		Ragi.		Sea Salt.		
		Fasli 1294.	Fasli 1295.	Fasli 1294.	Fasli 1295.	Fasli 1294.	Fasli 1295.	Fasli 1294.	Fasli 1295.	
Northern Section.	Ganjam ..	15·9	14·2	28·1	29·6	28·4	27·9	14·7	15·1	0·16
	Vizagapatam ..	13·7	14·3	25·2	24·5	28·6	27·5	16·1	15·8	0·26
	Godávari ..	16·2	15·0	27·7	26·3	30·9	28·0	14·5	13·6	..
	Kistna	14·4	14·5	23·1	21·2	30·9	29·3	14·3	13·9	..
	Nellore	14·8	15·2	24·5	25·0	28·4	29·7	14·9	14·9	0·07
Ceded Districts ..	Cuddapah ..	14·7	14·0	25·3	25·7	30·3	29·8	15·0	14·6	..
	Anantapur ..	12·9	12·9	23·6	26·1	24·4	28·2	14·3	13·8	0·16
	Bellary	12·9	12·9	21·8	26·2	26·3	30·8	13·5	13·2	0·29
	Kurnool.. ..	12·2	13·0	23·1	26·7	25·3	27·9	14·3	14·0	..
East Centre ..	Madras	12·8	14·0	17·3	..	25·0	26·6	16·9	14·6	..
	Chingleput ..	14·8	15·7	..	19·0	24·1	26·4	14·9	14·2	..
	North Arcot ..	15·4	15·9	24·8	24·0	26·5	28·2	15·2	14·7	..
	South Arcot ..	13·8	16·9	..	34·7	22·7	29·7	15·0	14·4	..
Cauvery.. ..	Tanjore ..	11·9	16·5	20·4	25·4	21·5	26·5	15·7	15·3	0·02
	Trichinopoly ..	12·1	16·1	35·1	56·4	23·2	32·3	14·6	14·5	0·12
Southern Section.	Madura ..	13·4	16·0	26·0	39·5	22·9	30·5	15·6	15·5	1·04
	Tinnevelly ..	12·9	14·8	28·0	20·6	19·5	26·0	16·2	15·7	0·64
West Centre ..	Coimbatore ..	12·7	14·2	20·0	22·8	23·6	27·4	14·0	13·9	0·49
	Nílgiris	10·6	12·9	15·5	19·5	17·2	22·9	11·0	12·0	1·80
	Salem	14·2	15·0	24·7	25·7	28·9	29·4	16·3	15·7	0·23
West	South Canara ..	14·3	15·1	..	..	19·2	20·2	15·1	16·4	0·21
	Malabar.. ..	13·1	13·4	..	..	21·4	21·7	13·4	13·7	2·10

STATEMENT showing Extent of Cultivation for the month of April 1886 (Fasli 1295).

Districts.	Government.				Inam.			
	First Crop.		Second Crop.		First Crop.		Second Crop.	
	Dry.	Wet.	Dry.	Wet.	Dry.	Wet.	Dry.	Wet.
	ACS.	ACS.	ACS.	ACS.	ACS.	ACS.	ACS.	ACS.
Ganjam	797	1	2	722	208	..	..	16
Vizagapatam	7	239	3	513	9	41	2	289
Godávari	90	947	12	6	44	164	93	8
Kistna	..	..	..	..	..	..	..	..
Nellore	525	163	..	..	93	36	..	..
Cuddapah	14,004	3,845	..	..	2,592	1,591	..	..
Anantapur	13,507	1,227	510	989	8,050	242	44	183
Bellary	413	532	..	..	45	172	..	..
Kurnool	..	..	..	..	..	..	..	..
Madras	..	..	..	..	..	..	..	..
Chingleput	12,240	3,663	1	95	1,117	522	..	17
North Arcot	6,854	1,664	..	..	1,380	394	..	..
South Arcot	535	360	..	..	8	30	..	..
Tanjore	238	185	20	10	10	8	..	..
Trichinopoly	656	1,205	17	140	36	33	..	1
Madura	4,717	5,322	..	..	129	437	..	..
Tinnevelly	2,012	2,152	..	3,819	52	110	..	130
Coimbatore	25,842	1,983	..	..	1,801	243	..	..
Nilgiris	29,655	580	..	..	..	..	..	..
Salem	12,870	9,052	..	..	286	229	..	..
South Canara	12,166	28,391	..	1	335	617	..	..
Malabar	14,164	59,955	..	..	30	762	..	..
Total ..	151,292	121,466	565	6,295	16,225	5,631	139	644

REMARKS of District Officers on the state of the Season for the month of April 1886 (Fasli 1295).

Districts.	Rainfall in Inches registered at the Stations in which Rain-gauges are kept.	River Freshes.	Supply to Tanks.	General condition of Standing Crops.	Outturn of Crops harvested in general terms.	Prices, whether rising, falling, or stationary in the several taluks.	Condition of the People.		Condition of Cattle.	Pasture, whether sufficient or not.	State of Water-supply.
							Health.	Mortality per mille.			
1	2	3	4	5	6	7	8	9	10	11	12
Ganjam ..	0·16	..	..	Good	Gingelly oil-seeds bad; no other crops harvested.	Stationary ..	Small-pox and fever in two taluks, and slight cholera in three.	1·3	Good	Generally sufficient.	Good.
Vizagapatam	0·26	Slightly flowing in three zemindari taluks.	..	Fair	Sugar-cane average; ragi, green-gram and gingelly-oil seed indifferent; chillies and black paddy bad.	Rising in one taluk and stationary in others.	Cholera in Veeravilli, four deaths; small-pox in parts of eight taluks and fever in parts of three taluks.	11·1	Rinderpest in one taluk, seven deaths; inflammatory fever in one taluk three deaths; hæmaturia in one taluk; inflammation of the lungs in one taluk.	Decreasing.	Diminishing.
Godávari ..	..	..	..	Generally good ..	..	Stationary in some taluks and rising in others.	Cholera and fever lingering.	..	Generally good ..	Dry fodder procurable.	Generally good.
Kistna ..	..	..	..	..	Paddy, cumbu, cotton and castor oil-seeds indifferent. Ragi, indigo and tobacco average.	Generally stationary.	Cholera in almost all taluks. Fever, small-pox and guinea-worm in some taluks.	(a) 23·4	Rinderpest and epizootic aphtha in three taluks.	Dry fodder sufficient.	Generally good.

Remarks of District Officers on the state of the Season for the month of April 1886 (Fasli 1295)—(*Continued*).

Districts.	Rainfall in Inches registered at the Stations in which Rain-gauges are kept.	River Freshes.	Supply to Tanks.	General condition of Standing Crops.	Outturn of Crops harvested in general terms.	Prices, whether rising, falling, or stationary in the several taluks.	Condition of the People.		Condition of Cattle.	Pasture, whether sufficient or not.	State of Water-supply.
							Health.	Mortality per mille.			
1	2	3	4	5	6	7	8	9	10	11	12
Nellore ..	0·07	..	..	Generally good ..	..	Stationary ..	Generally good. Small-pox, fever and cholera in some taluks.	(*a*) 15·1	Epizootic aphtha in five taluks.	Generally sufficient.	Sufficient.
Cuddapah ..	..	..	..	Good, but withering for want of rain in parts of two taluks.	..	Rising in Madanapalle; stationary elsewhere.	Slight fever and small-pox in parts of three taluks. Good elsewhere.	(*a*) 16·5	Epizootic aphtha and rinderpest in Proddutur. Hoof disease in parts of Pullampet and Sidhout.	Sufficient, except in five taluks.	Drinking water scanty in parts of three taluks. Sufficient elsewhere.
Anantapur ..	0·16	..	..	In Madakasira, cholum suffering from blight and paddy withering for want of water; other crops fair. In parts of Penukonda crops withering. In other places the crops good or fair.	The out-turn was generally indifferent or average.	Generally stationary.	Good. Small-pox in a few villages.	18·0	Good	In Penukonda and parts of Dharmavaram procured with difficulty. Sufficient in other parts of the district.	Fairly sufficient.
Bellary ..	0·29	..	..	Good	..	Stationary in five taluks and falling in three.	Good	(*a*) 16·2	Good, but slight disease in three taluks.	Sufficient ..	Sufficient except in Adóni where supply from wells are diminishing.

Remarks of District Officers on the state of the Season for the month of April 1886 (Fasli 1295)—(*Continued*).

Districts.	Rainfall in Inches registered at the Stations in which Rain-gauges are kept.	River Freshes.	Supply to Tanks.	General condition of Standing Crops.	Outturn of Crops harvested in general terms.	Prices, whether rising, falling, or stationary in the several taluks.	Condition of the People. Health.	Condition of the People. Mortality per mille.	Condition of Cattle.	Pasture, whether sufficient or not.	State of Water-supply.
1	2	3	4	5	6	7	8	9	10	11	12
Kurnool ..	..	..	..	..	..	Cholum falling in one taluk. The rest stationary.	Good, but small-pox in three taluks.	19·2	Foot-and-mouth disease in two taluks and dysentery in one.	Sufficient ..	Procurable.
Madras ..	..	..	..	Statistics of cultivation not available.		Stationary ..	Slight fever and small-pox.	2·9	Slight epizootic aphtha.	Good ..	Sufficient.
Chingleput.	..	..	..	Fair. Water wanted in Ponnéri.	..	Generally stationary.	Small-pox and measles in three taluks; good in others.	(a) 1·9	Good in Saidápet. Epizootic aphtha, dysentery, anthrax, malignant sore-throat and rinderpest in other taluks. Attacks 116, deaths 24.	Moderate ..	Many tanks dry.
North Arcot.	..	..	..	Generally good; in parts of Chittoor, Punganúr, and Venkatagirikota water wanted.	Below the average on the whole.	Stationary ..	Fever in parts of three taluks and small-pox in one of them.	17·7	Foot-and-mouth diseases, inflammation of the lungs, and rinderpest in some parts. Attacks 103 and deaths 10.	Meagre in parts of five taluks; sufficient elsewhere.	Supply in tanks scanty in three taluks and three divisions and gradually diminishing elsewhere.

Remarks of District Officers on the state of the Season for the month of April 1886 (Fasli 1295)—(*Continued*).

Districts.	Rainfall in Inches registered at the Stations in which Rain-gauges are kept.	River Freshes.	Supply to Tanks.	General condition of Standing Crops.	Outturn of Crops harvested in general terms.	Prices, whether rising, falling, or stationary in the several taluks.	Condition of the People.		Condition of Cattle.	Pasture, whether sufficient or not.	State of Water-supply.
							Health.	Mortality per mille.			
1	2	3	4	5	6	7	8	9	10	11	12
South Arcot.	..	..	..	Paddy, gingelly oil-seeds and indigo generally good.	..	Nearly stationary.	Generally good; slight fever in Chengam.	(a) 1·4	Generally healthy. In two taluks 605 attacks from epizootic aphtha and 21 deaths.	Green fodder diminishing.	Enough for drinking purposes; tanks getting dry.
Tanjore ..	0·02	..	..	Generally good; rain wanted in parts of Tiruturaipûndi.	Paddy mostly indifferent or bad; cholum and cotton average; gingelly oil-seed and ground-nut average or indifferent.	Stationary ..	Generally good ..	(a) 1·6	Generally good ..	Sufficient ..	Generally sufficient.
Trichinopoly	0·12	..	..	Good. Water wanted in Kulitalai.	Not bad ..	Rice and cumbu slightly rising; ragi stationary.	Good. Small-pox in three taluks; 24 attacks, 8 deaths.	(a) 1·1	Good in three taluks. Anthrax and swelling of abdomen in two taluks.	Sufficient in irrigated and moderate in dry parts.	Sufficient for drinking purposes.
Madura ..	1·04	..	..	Good	Average ..	Stationary ..	Generally good. Fever in Periyakulam taluk and small-pox in Palni.	(a) 1·9	Generally good ..	Fair ..	Sufficient.

Remarks of District Officers on the state of the Season for the month of April 1886 (Fasli 1295)—(*Continued*).

Districts.	Rainfall in Inches registered at the Stations in which Rain-gauges are kept.	River Freshes.	Supply to Tanks.	General condition of Standing Crops.	Outturn of Crops harvested in general terms.	Prices, whether rising, falling, or stationary in the several taluks.	Condition of the People. Health.	Condition of the People. Mortality per mille.	Condition of Cattle.	Pasture, whether sufficient or not.	State of Water-supply.
1	2	3	4	5	6	7	8	9	10	11	12
Tinnevelly .	0·64	..	..	Rain wanted in parts of five taluks; good elsewhere.	Paddy indifferent; cholum bad.	Falling in three taluks and stationary in others.	Slight small-pox in parts of three taluks; good elsewhere.	(*a*) 1·6	Cattle-pox; foot-and-mouth disease in some parts; good elsewhere.	Insufficient.	Generally sufficient.
Coimbatore .	0·49	..	..	Good	..	Stationary in four taluks, rising in three and falling in others.	Generally good; small-pox in two taluks and slight fever and dysentery in one.	(*a*) 1·1	Generally good ..	Sufficient in three taluks and scanty in others.	Generally sufficient except in a few villages.
Nílgiris ..	1·80	..	..	..	..	Almost stationary.	Generally good; malaria fever in Gúdalúr.	(*a*) 1·7	Good	Insufficient in Gúdalúr and Ootacamund. Sufficient elsewhere.	Sufficient except in Gúdalúr.
Salem ..	0·23	..	..	Good except in five taluks where only those under wells are good.	..	Stationary ..	Fever in parts of one taluk and small-pox in parts of two taluks.	16·0	Disease in parts of two taluks.	Sufficient in four taluks.	Sufficient for drinking purposes except in Tirupatúr.

Remarks of District Officers on the state of the Season for the month of April 1886 (Fasli 1295)—(*Continued*).

Districts.	Rainfall in Inches registered at the Stations in which Rain-gauges are kept.	River Freshes.	Supply to Tanks.	General condition of Standing Crops.	Outturn of Crops harvested in general terms.	Prices, whether rising, falling, or stationary in the several taluks.	Condition of the People.		Condition of Cattle.	Pasture, whether sufficient or not.	State of Water-supply.
							Health.	Mortality per mille.			
1	2	3	4	5	6	7	8	9	10	11	12
South Canara.	0·21	..	..	Good in two taluks and fair in three.	Generally fair..	Almost stationary.	Small-pox, fever and measles in certain parts.	(*a*) 23·9	Rinderpest in two taluks; forty-one attacks, five deaths. Malignant sore-throat in two taluks; thirty-five attacks and twenty-two deaths.	Green fodder scanty.	Moderate.
Malabar ..	2·10	..	..	..	..	Rising in Wynaad. Stationary elsewhere.	Small-pox in parts of seven taluks, cholera in three and fever in one taluk.	18	Good	Scanty ..	Scanty.

(*a*) The figures quoted here relate to March 1886.

Revenue Board Office,
Madras,
7th June 1886.

M. HAMMICK,
Acting Secretary.

MADRAS: PRINTED AND PUBLISHED BY R. HILL, AT THE GOVERNMENT PRESS, FORT ST. GEORGE.

FORT ST. GEORGE GAZETTE SUPPLEMENT.

FRIDAY EVENING, JUNE 18, 1886.

ABSTRACT PROCEEDINGS

OF

THE COUNCIL OF THE GOVERNOR-GENERAL OF INDIA FOR MAKING LAWS AND REGULATIONS.

The Council met at Viceregal Lodge, Simla, on Thursday the 20th May 1886.

PRESENT :

His Excellency the Viceroy and Governor-General of India, K.P., G.C.B., G.C.M.G., G.M.S.I., G.M.I.E., P.C.—*Presiding*.
His Excellency the Commander-in-Chief, *Bart.*, G.C.B., C.I.E., V.C.
The Honorable C. P. Ilbert, C.S.I., C.I.E.
The Honorable Sir S. C. Bayley, K.C.S.I., C.I.E.
The Honorable T. C. Hope, C.S.I., C.I.E.
The Honorable Sir A. Colvin, K.C.M.G., C.I.E.
The Honorable W. W. Hunter, C.S.I., C.I.E., LL.D.
Colonel the Honorable W. G. Davies, C.S.I.

INDIAN BANKRUPTCY BILL.

The Honorable MR. ILBERT introduced the Bill to amend and consolidate the Law of Bankruptcy and Insolvency in British India, and moved that it be referred to a select Committee consisting of the Honorable Sir S. Bayley, the Honorable Messrs. Evans and Steel, the Honorable Rao Saheb Vishvanath Narayan Mandlik, and the Mover. He said :

"Although I am now nominating the Committee on this Bill, I do not propose that the Committee should begin its sittings until after the Government has returned to Calcutta. But I hope it will be arranged that such further suggestions and criticisms as we may receive will reach us in ample time to allow of their being considered in the Legislative Department before we leave Simla, so that no time may be lost after our return to Calcutta.

"I have already said that the Bill follows generally the arrangement and lines of the English Act, and I will take this opportunity of explaining the most important points of difference between the two measures.

"The Indian Bill is given as extensive an operation, local and personal, as can be conferred on it by this Legislature. In order to obtain for it further operation in Her Majesty's dominions beyond India we must go to Parliament; in order to obtain for it further operation in Native States within India we must rely on executive arrangements with the rulers of those States. The Local Governments will, I feel sure, appreciate the importance of considering how far it may be practicable to make and give effect to such arrangements.

"The acts of bankruptcy enumerated in the Indian Bill are not precisely identical with those specified in the English Act. It would not be desirable in India to make the mere levy of execution an act of bankruptcy. On the other hand, it is suggested in some of the papers on the draft Bill that it would be desirable to retain some of the acts of bankruptcy recognized in the existing Indian Act. I have adopted this suggestion, and have also made some further modifications of, and additions to, the corresponding English section which have been suggested by the working of the Act in England.

"The Court will not ordinarily exercise jurisdiction on a bankruptcy petition unless the debtor is either in prison for debt within the limits of the ordinary original jurisdiction of the Court, or he or his partner resides or has a place of business within those limits. But for the purpose of empowering the Court, in exceptional cases, to deal with up-country debtors, I have qualified these restrictions by two provisoes, of which the first enables the Court to transfer before itself and dispose of under the bankruptcy law any case of indebtedness which may have been brought before an inferior Court under the Insolvency chapter of the Civil Procedure Code; whilst the second empowers the Court in classes of cases to be defined by rules to exercise jurisdiction notwithstanding the restrictions imposed by the earlier part of the section. It will be for the High Courts to consider whether these provisoes will suffice to give them the requisite power of dealing with such cases. I have myself some doubt about the necessity for the second proviso. And I do not contemplate that a High Court should, under it, attempt to deal with cases arising outside its own province. If, for instance, the High Court at Calcutta were to exercise jurisdiction in a Cawnpore case, it might bring itself into conflict with the High Court at Allahabad. Should it be found desirable to deal under the bankruptcy law with any classes of indebtedness arising at Cawnpore, probably the most convenient mode of doing so will be to confer on the Allahabad Court a bankruptcy jurisdiction subject to such limitations as may be found expedient. This could be done under section 79 of the Bill.

"It has been suggested that the application of the Insolvency chapter of the Civil Procedure Code to the High Courts of the Presidency-towns should be barred. But it is possible that this chapter may still be needed for cases where the total amount

of the debtor's liabilities does not amount to Rupees 500, and I think it will be sufficient to give full power to stay proceedings under the Code where concurrent proceedings are being taken under the Act. Such a power is given by section 9 of the Bill.

"Under ordinary circumstances, where the petition is presented by the debtor, the Court will make an order as a matter of course, but it need not make an order in cases where in its opinion the proceedings ought to have been taken before some other Court having jurisdiction (section 7). Unless this qualification were made, a debtor against whom proceedings have, quite properly, been taken in Calcutta might, to the great inconvenience of his creditors, get himself adjudged bankrupt at Bombay by migrating and petitioning there.

"The order to be made on a bankruptcy petition is in the Bill, as in the English Act, called a receiving order. The effect of a receiving order is not quite the same as that of a vesting order under the existing Indian Act. A receiving order transfers the possession of, but not the property in, the debtor's estate: the debtor is not divested of his estate unless or until he is adjudged bankrupt. An interval was designedly allowed by the English law for the purpose of enabling a debtor to escape the consequences of bankruptcy by making suitable arrangements with his creditors under the control and supervision of the Court; and although the adjudication of bankruptcy may, and in many cases will, follow immediately on the receiving order (see section 20), yet I think it is desirable that we should follow the English law by making it possible for an interval to elapse between the two stages. The person who is constituted receiver under the order, and to whom the possession of the debtor's property is given, is the official assignee, who, however, may appoint a special manager in cases where he thinks it expedient to do so.

"One important effect of a receiving order under the Bill, as now revised, is that the debtor, if in prison for debt, is thereupon released. It might be objected that, inasmuch as an imprisoned debtor can obtain a receiving order on his own petition, this provision nullifies the law of imprisonment for debt. But if the Bill is carefully examined it will be found that this objection is not really valid. The state in which a debtor will find himself on being released from prison under a receiving order will be very far removed from a state of liberty. He will remain at the beck and call of the official assignee, who is invested with inquisitorial powers over his person and property, and on whom he has to dance attendance whenever required (see section 22). If he attempts to escape or evade the requirements of the law, he is liable to be summarily committed to prison. Such a situation, though inconvenient to persons fraudulently disposed, need present no terrors to the debtor who is honestly anxious to assist in the realization and distribution of his estate, and will give a much better chance to the creditors generally than the present law, under which the debtor usually strikes a bargain with some favored creditor as to the terms on which he is to obtain immunity from arrest or be released from prison if arrested Precautions are also taken against allowing the proceedings to slumber after the debtor has obtained the protection given him by a receiving order. The Court has power either to rescind its order (section 88) or to give the carriage of the proceedings to the official assignee (section 91)

"Under the English law the first step consequent on a receiving order is to summon a general meeting of the creditors. Under the Indian Bill such meetings need not be summoned except under directions from the Court or the official assignee or in pursuance of a requisition from a specified proportion of creditors (see section 17 and first schedule, rule 4). But the debtor is required to make at once full discovery of his estate and liabilities, and it will be then for the creditors to consider, with the assistance of the official assignee, whether any proposal which the debtor may make for a composition or scheme of arrangement should be entertained, or whether the debtor should not be adjudged bankrupt. The main provisions of the English Act with respect to the public examination of the debtor have been retained, and, although they may involve revelations which are not always pleasant to creditors, I think it is desirable in the interests of justice that they should be retained. We must be very careful against giving facilities to creditors for smothering up doubtful transactions.

"Where a debtor is adjudged bankrupt, his property is thereby vested, not, as under the English Act, in a trustee appointed by the creditors, but in the official assignee, to whom possession will already have been given under the receiving order. If the creditors desire to substitute a special assignee of their own nomination, they must take proceedings for doing so under Part V of the Bill. But it would appear from what has been said by the Calcutta Judges that such proceedings are not likely to be of frequent occurrence.

"The Official Assignee will not be assisted or hampered by any committee of inspection, but he will, as I have already said, be given extensive powers of inquisitorial control over the person and property of the debtor. I agree with Mr. Macgregor that such powers ought to be given, and I think he will find that the provisions of the Bill will be sufficient to remove the risks and impediments which the official assignee experiences in the performance of his duties under the existing law. If section 25 of the Bill is compared with the corresponding section of the English Act, it will be found that I have ventured to confer on the official assignee somewhat larger powers of discovery than are given by the English law.

"The provisions of the Bill with respect to the bankrupt's discharge—by which is meant his discharge from liabilities, not his release from prison—follow closely those of the English Act, with one or two modifications suggested by Indian circumstances. I think that for the purpose of obtaining recognition of our proceedings in other parts of the British dominions it is important that on this point the English and Indian law should be substantially identical.

"I have added to the Bill a Part corresponding to Part II of the English Act, which disqualifies bankrupts for holding certain public offices. Similar disqualifications are already imposed by the several Indian Acts relating to municipal and other local authorities, but I think it is convenient that they should be gathered up and generalized in a Bankruptcy Act.

"In Part III of the English Act, which contains the rules for the administration of the debtor's estate, I have not deviated from the English Act except so far as is necessary for the purpose of meeting the peculiarities of Indian circumstances. Thus, the provisions as to execution are made to square with those of the Civil Procedure Code; the custom of paying rent monthly is recognized by limiting the landlord's right of distraint after bankruptcy to one month's rent; the language of one of the sections is so modified as to allow a debtor to retain, as necessaries, not only his clothes, bedding and tools, but the cooking-pot which is so indispensable to an Indian; and the power of attaching salaries and pensions is limited with reference to the provisions of the Civil Procedure Code and of the Indian Pensions Act. The Calcutta Chamber of Commerce, in a paper which

has only reached me within the last week, have renewed a suggestion which was made some years ago that the section relating to reputed ownership should be amended to meet a reported Calcutta case (*Gubboy* v. *Miller*, I. L. R. 6 Cal. 633). But I agree with the judicial authorities who considered the same suggestion in 1881 that it would be extremely dangerous to meddle with this very difficult clause, and that our safest course is to follow the English law. I am, however, disposed to agree with the Official Assignee at Calcutta that some further provision is required to prevent persons from trading on the credit of property which is in their possession but which does not really belong to them, and that for this purpose it may be desirable to legislate on the lines of the English Bills of Sale Acts, by requiring mortgages of moveable property to be registered, at all events, in certain classes of cases. My chief doubt is as to whether and how far transfers of moveable property should be recognized at all unless accompanied by possession. But in any case such legislation as is required would be most conveniently embodied in an enactment separate from the Bankruptcy Bill, and we are now considering in the Legislative Department what form it should assume.

"Part IV of the Indian Bill contains such of the provisions of Parts IV and V of the English Act as appear applicable to the official who will in almost every case discharge the functions both of the official receiver and of the trustee under that Act. I propose to retain for this official the title of official assignee which he now bears under the Indian Insolvency Act, and which apparently he wishes to continue to bear. I believe that the chief reason why the term 'official assignee' was not used in the last English Bankruptcy Act was that it was not desired to revive certain associations which had gathered round the official assignees appointed under earlier Acts, and it was thought that the official administrator might smell more sweet under another name. I am glad to think that the titles of the existing Indian assignees do not call up similar associations, and to hope that the actions of their predecessors smell sweet and blossom in their dusty surroundings. I have inserted a saving [section 58 (3)] for the rights and interests of the gentlemen now acting as official assignees, and when the Bill is in Committee I dare say that they will help me to see that this saving does all that is required. With respect to the mode in which the official assignee is to keep his accounts and make his payments and investments, I am anxious to make no greater change than is necessary in so much of the existing rules and practice as may have worked well, but it seems to be desirable as a matter of principle that money received on account of bankruptcy estates should, like money received by ordinary Civil Courts, be paid into a Government treasury or into a bank conducting treasury business for the Government, in order that there may be the security of the Government for its safe custody, and that the safeguards against the occurrence of error provided by the rules of the Government with respect to payments from Government treasuries may be brought into operation. In framing the clauses on this subject which I have inserted in the Bill, I have had the assistance of Messrs. Barbour, Westland, and Hardie, all of whom are, I believe, of opinion that they will not fetter the official assignee in any unnecessary shackles of red tape.

"I need not dwell on Part V of the Bill, which relates to special assignees, and the provisions of which are not likely to be much used

"Part VI of the Bill deals with the constitution, procedure, and powers of the Courts which are to exercise jurisdiction under this measure. These Courts will be the High Courts of the Presidency-towns, the Recorder's Court at Rangoon, unless that Court is merged in a Chief Court before this Bill comes into operation, and any other Courts on which it may be found convenient to confer bankruptcy jurisdiction. It may possibly be desirable to confer such jurisdiction on the Courts at such places as Allahabad, Lahore, or Karachi, and the Bill has been so framed as to admit of the jurisdiction thus conferred being limited to particular classes of cases. Power is given to each of the High Courts at the Presidency-towns to delegate part of the bankruptcy jurisdiction either to a Small Cause Court Judge or to an officer of its own. I understand that the former arrangement is preferred at Madras, and the latter at Calcutta and Bombay.

"Part VII of the Bill, like Part VII of the English Act, enables the provisions of the law to be modified and simplified in the case of small bankruptcies. I have nothing to say about this Part, except that I am inclined to think that the pecuniary limit fixed for small bankruptcies might be raised.

"Part VIII of the Bill, following the English Act, contains stringent provisions for the punishment of fraudulent creditors and debtors. Suggestions have been made for adding to the list of offences dealt with by this Part of the Bill, but I think it will be found that provision has been made either by this Part of the Bill or by the Penal Code for all the offences which need be covered.

"Last of all comes a Part containing supplemental provisions, near the end of which will be found a clause for the distribution of certain unclaimed dividends for which creditors have not proved, and which appear from the note furnished to me by Mr. Turner, the Official Assignee of Bombay, to have been accumulating for some time in the Bombay Insolvency Court, and to amount there to some two lakhs or more. Mr. Turner has also referred in his note to a question which has been raised about the validity of certain rules under which the interest on unclaimed or undistributed assets has been applied towards defraying charges connected with the administration of insolvent estates. But if, and so far as, the validity of those rules is open to question, the doubt can only be set at rest by Parliamentary legislation, which would, I feel sure, be granted if necessary, and accordingly I have not dealt with the point in the present Bill.

"With these explanations, which have necessarily been of a somewhat technical character, I commend the Bill to the favorable consideration of the Council."

The Motion was put and agreed to.

The Honorable MR. ILBERT also moved that the Bill and Statement of Objects and Reasons be published in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

The Council adjourned to Wednesday the 2nd June 1886.

S. HARVEY JAMES,
Offg. Secy. to the Govt. of India,
Legislative Department.

Simla, the 21st May 1886.

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E. F. WEBSTER,
Chief Secretary.

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